

**To:** Butts, Sally[sbutts@blm.gov]; Fisher, Timothy[tjfisher@blm.gov]; Nikki Moore[nmoore@blm.gov]  
**Cc:** Tyler Ashcroft[tashcrof@blm.gov]; Donald Hoffheins[dhoffhei@blm.gov]; Cynthia Staszak[cstaszak@blm.gov]  
**From:** Ginn, Allison  
**Sent:** 2017-05-19T14:48:28-04:00  
**Importance:** Normal  
**Subject:** Re: Additional questions on monuments review  
**Received:** 2017-05-19T14:48:42-04:00  
[ExecutiveSummaryBearsEarsProposal\(BEITwebsite\).pdf](#)  
[TribalLettersPostDesignation.pdf](#)  
[Stegner Center NM vs NCA.pdf](#)

Regards,

Allison Ginn  
National Conservation Lands Program Lead  
BLM Utah State Office  
801-539-4053

On Fri, May 19, 2017 at 12:47 PM, Ginn, Allison <[aginn@blm.gov](mailto:aginn@blm.gov)> wrote:

WO 410-

Please find attached BLM-Utah's responses and supporting documentation for Bears Ears National Monument. (Due to file size, I will have to send over multiple emails.)

We will be sending GSENM's response shortly. Thanks!

Regards,

Allison Ginn  
National Conservation Lands Program Lead  
BLM Utah State Office  
801-539-4053

On Thu, May 18, 2017 at 5:41 PM, Butts, Sally <[sbutts@blm.gov](mailto:sbutts@blm.gov)> wrote:

Hi All:

We received a few additional questions from DOI that we need some assistance from Utah. Please see the attached list of questions and provide responses to the questions I've noted for Utah. There are a few that we (WO410) will take the lead on addressing. Please don't upload this document to the google drive folder. Just insert your responses in the attachment, one for Bears Ears and one for GSENM, and email back to me to coordinate in the WO and transmit to DOI. If at all possible, please provide the responses to these questions tomorrow (5/19).

Please let me know if you have any questions.

Thanks so much, Sally

--

Sally R. Butts, J.D., Acting Division Chief

National Conservation Lands

Bureau of Land Management

20 M St. SE, Washington, DC 20003

Office 202-912-7170; Cell 202-695-5889; Fax 202-245-0050; [sbutts@blm.gov](mailto:sbutts@blm.gov)

## **National Monuments and National Conservation Areas: A Comparison in Light of the Bears Ears Proposal**

John C. Ruple \*  
Robert B. Keiter \*\*  
Andrew Ognibene \*\*\*

September 9, 2016



**Wallace Stegner Center**  
for Land, Resources and the Environment  
UNIVERSITY OF UTAH S.J. QUINNEY COLLEGE OF LAW

Stegner Center White Paper No. 2016-02

At over 7,800 square-miles, San Juan County, Utah is the largest county in the state. The federal government is the largest landowner in the county, managing 61.4-percent of the land. Native Americans — primarily the Navajo Nation — control 25.2-percent of the land, with state, and private and local government controlling just 5.3- and 8.1-percent of the land, respectively.<sup>1</sup> San Juan County is both one of the least populous counties in the state, and the county with the lowest per-capita income.<sup>2</sup> The county's economic challenges are juxtaposed against invaluable natural resources. The county includes a rich and diverse landscape, rising 7,000 feet from the arid lands near the San Juan River up to the snowcapped Abajo Mountains. Blessed with historic, archaeological, and environmental resources, the region has tremendous significance to those who live there. A broad consensus has emerged favoring additional protection for the area, but the form that protection will take is a matter of intense debate.

As part of the Utah Public Lands Initiative (PLI), Congressmen Rob Bishop and Jason Chaffetz propose to protect the region via two adjacent National Conservation Areas (NCA): the Bears Ears NCA (857,603 acres), and the Indian Creek NCA (434,354 acres).<sup>3</sup> In contrast, the Bears Ears Intertribal Coalition, a group of five Native American tribes, urges President Obama to proclaim a Bears Ears National Monument spanning 1.9 million acres, which would include the land from the two NCAs noted above plus an additional 608,000 culturally-sensitive acres.<sup>4</sup>

This paper discusses both protective mechanisms: a congressional NCA designation, and a presidential national monument proclamation. Our aim is to compare the two as they relate to this common landscape, and to inform the public's understanding of each. While both mechanisms are sufficiently flexible to address the wide-ranging issues raised by various constituents, there are critical differences between the proposals regarding the size of the protected area and the management requirements that would apply.

We do not address the PLI in its entirety because, at 215 pages, the PLI tackles wide-ranging public land management issues across a much larger geographic area than can be analyzed fully here. Rather, our analysis focuses solely on the PLI's plans for the Bears Ears region. We also caution that neither proposal has been approved, and significant changes are likely to occur before protections are bestowed. Indeed, we encourage the decision makers to incorporate the best elements of both proposals into the final decision, whether that turns out to be an NCA or a national monument designation. Finally, we point out that an NCA or national monument designation would mark the beginning of a planning process, not the final resolution of all complex management questions. The managing agencies must flesh out many details in the plan(s), which will have at least as much impact on area management as the designation that is ultimately selected.

We begin by reviewing the Antiquities Act and the Obama administration's monument proclamations, and with an overview of existing NCAs and how they address management issues. We then discuss the monument proposal from the Inter-Tribal Coalition and the two NCA proposals from the PLI. Although this paper focuses heavily on Southeastern Utah, the lessons learned here apply across the country, as interest in designating new monuments and NCAs will almost certainly continue and the questions addressed here will arise again.

## **I. National Monuments**

Congress enacted the Antiquities Act of 1906<sup>5</sup> in response to concerns over looting and desecration of Native American sites in the Southwestern United States.<sup>6</sup> In passing the Antiquities Act, Congress expressly delegated to the President of the United States<sup>7</sup> the unilateral and discretionary authority to:

[D]eclare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments. .

. . The limits of the parcels shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.<sup>8</sup>

There are currently 122 national monuments spread across twenty-nine states, the District of Columbia, and several U.S Territories. Fifteen of the last nineteen Presidents, Republicans and Democrats alike, have utilized this authority. Some of our most iconic national parks began as national monuments, including the Grand Canyon, Arches, and Grand Teton.

Monument proclamations apply only to federal land.<sup>9</sup> As the proclamation for every recent national monument makes clear, monuments are established “subject to valid existing rights.”<sup>10</sup> This includes existing water rights, which are not affected by a monument designation.<sup>11</sup> Judicial opinions upholding at least eight monument designations all affirm the President’s discretion to determine what is suitably “historic” or “scientific.”<sup>12</sup> Similarly, while the Act restricts presidential designations to the “smallest area compatible with [ ] proper care and management,”<sup>13</sup> the courts have uniformly refused to second guess a President’s determination of appropriate monument size.<sup>14</sup> In a case involving the Grand Staircase-Escalante National Monument, the Utah Federal District Court ruled that its authority to review presidential monument proclamations is limited to ascertaining only whether the President invoked delegated powers under the Antiquities Act, and that the court cannot review the substance of that invocation.<sup>15</sup> Courts also reject contentions that Presidential authority is limited to rare and discrete man-made objects such as prehistoric ruins,<sup>16</sup> or that ecosystem conservation and environmentally-inspired protection exceeds the President’s delegated authority.<sup>17</sup>

This breadth of authority granted by Congress and affirmed by the courts affords Presidents extraordinary latitude to incorporate place-specific language in national monument proclamations. President Obama, for example, recognized the importance of water to Westerners when, in creating the Basin and Range National Monument in Nevada, he stated that the monument neither created new federal water rights nor altered existing state-issued water rights.<sup>18</sup> In creating the Browns Canyon National Monument in Colorado, he expressly recognized state “jurisdiction and authority with respect to fish and wildlife management.”<sup>19</sup> In creating the Río Grande Del Norte National Monument in New Mexico, he protected utility line rights-of-way within the monument.<sup>20</sup> Similarly, the proclamation for the Basin and Range National Monument states that, “nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on federal lands within the monument. Livestock grazing within the monument shall continue to be governed by laws and regulations other than this proclamation.”<sup>21</sup>

Recent national monument proclamations also invariably require managers to create a management plan in consultation with state, local, and tribal governments. For example, in his Berryessa Snow Mountain National Monument proclamation, President Obama directed monument managers to “provide for public involvement in the development of the management plan including, but not limited to, consultation with tribal, State, and local governments. In the development and implementation of the management plan, [federal agencies] shall maximize opportunities . . . for shared resources, operational efficiency, and cooperation.”<sup>22</sup>

Questions regarding Native American access and use of a national monument are of particular importance in Southeastern Utah. Monument designations do not, as some have claimed, impose additional limits on American Indian access or use. To do so would conflict with the policy contained in the American Indian Religious Freedom Act, which declares that:

[I]t shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.<sup>23</sup>

Language specifically protecting Native Americans' rights to access and use national monuments is included in all Obama-era proclamations involving significant areas of public land. Indeed, nine of the most recent proclamations contain substantively identical language: "The Secretaries shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses."<sup>24</sup>

Recent monument proclamations also specifically address Native American use of forest products, firewood, and medicinal plants, where those issues have regional significance. The proclamation for the San Gabriel Mountains protects tribal members' access to the monument for "traditional cultural, spiritual, and tree and forest product-, food-, and medicine-gathering purposes."<sup>25</sup> The proclamation for the Río Grande Del Norte National Monument "ensure[s] the protection of religious and cultural sites in the monument and provide[s] access to the sites by members of Indian tribes for traditional cultural and customary uses." Furthermore, "[n]othing in this proclamation shall be construed to preclude the traditional collection of firewood and piñon nuts in the monument for personal non-commercial use consistent with the purposes of this proclamation."<sup>26</sup> The Chimney Rock National Monument proclamation states that the management plan "will protect and preserve access by tribal members for traditional cultural, spiritual, and food- and medicine-gathering purposes, consistent with the purposes of the monument, to the maximum extent permitted by law."<sup>27</sup>

In sum, in enacting the Antiquities Act, Congress expressly delegated to the President the power to designate new national monuments. Without exception, courts have upheld this power and have deferred to the President with respect to the management of newly created monuments. It is common for Presidents to include specific provisions addressing management challenges that are unique to the areas designated, and there is no evidence to suggest that any new monument designation would further restrict Native American access to or use of culturally significant resources. Indeed, recent monument proclamations evidence a clear trend towards expressly recognizing these rights.

## **II. National Conservation Areas**

The power to designate an NCA resides exclusively with Congress. Congress created the first NCA in 1970, and today there are sixteen NCAs in eight states. Congress has even broader authority to address management concerns than is available to the President under the Antiquities Act. Congress may, for instance, incorporate wilderness areas or wild and scenic river designations into statutes creating an NCA, as the power to designate these protected areas resides exclusively with Congress and has not been delegated to the President.

Management direction for each NCA is set forth in the legislation establishing the area. While this gives Congress flexibility to tailor management to local needs, it also complicates efforts to identify themes in NCA management. However, just as we can look to national monument proclamations to identify how a new monument would likely be managed, we can also look to existing NCA legislation to identify trends in NCA management.

Legislation creating an NCA commonly states as its statutory purpose: "to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources."<sup>28</sup> Minor variations may occur to reflect resources that are unique to each NCA.<sup>29</sup> The statutes creating NCAs also invariably include language regarding authorized uses. Early statutes creating NCAs were often more detailed and specific. The Kings Ranch NCA, for example, which was created in 1970, allows uses:

[I]ncluding but not limited to . . . scenic enjoyment, hunting, fishing, hiking, riding, camping, picnicking, boating and swimming, all uses of water resources, watershed management, production of timber and other forest producers,

grazing and other agricultural uses, fish and wildlife management, mining, preservation of ecological balance, scientific study, occupancy and access.<sup>30</sup>

Statutes creating newer NCAs typically state that federal land managers will allow only uses that “would further the purposes for which the Conservation Area is established,”<sup>31</sup> as determined by the Secretary of the managing agency. The treatment of water rights has also evolved under NCA designations. Although early NCAs did not explicitly address water rights,<sup>32</sup> or include a reservation of water sufficient to fulfill the purposes of the NCA,<sup>33</sup> two of the four most recent NCAs include provisions stating that the legislation does not create an express or implied water right,<sup>34</sup> while two others are silent on the issue.<sup>35</sup>

Congress, in designating NCAs, appears to be trending towards more specific protection. Early NCA legislation rarely included discussion of vehicle use, but recent NCAs commonly include statements that limit off-road motorized vehicle use to administrative or emergency response purposes.<sup>36</sup> Similarly, earlier NCA legislation often ignored livestock grazing, while more recent NCA legislation generally includes language addressing the practice. For instance, the 2009 Beaver Dam Wash NCA legislation provides that any grazing established prior to the day of the act could continue “subject to such reasonable regulations, policies, and practices as the Secretary considers necessary.”<sup>37</sup>

Native American access and use has rarely been addressed in NCA legislation. The only mention comes from the El Malpais NCA bill, which states:

[T]he Secretary shall assure nonexclusive access to the monument . . . by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act. . . . [T]he Secretary, upon the request of an appropriate Indian tribe, may from time to time temporarily close to general public use one or more specific portions of the monument or the conservation area in order to protect the privacy of religious activities in such areas by Indian people.<sup>38</sup>

None of the statutes creating an NCA includes language regarding the use of firewood, apart from the El Malpais NCA, which prohibits the commercial sale of dead or green wood.<sup>39</sup>

Management cooperation requirements vary across legislation, but some common themes are noteworthy. Most NCAs either authorize federal land managers to “enter into cooperative management agreements with appropriate state and local agencies,”<sup>40</sup> or direct federal managers to consult with appropriate state, tribal, and local governmental entities, and members of the public.<sup>41</sup>

In sum, Congress has tremendous latitude to include provisions addressing local issues and concerns in legislation creating NCAs. As with National Monuments, provisions in the statutes creating NCAs tend to be somewhat general in tone, requiring more detailed management definition as part of subsequent planning documents.

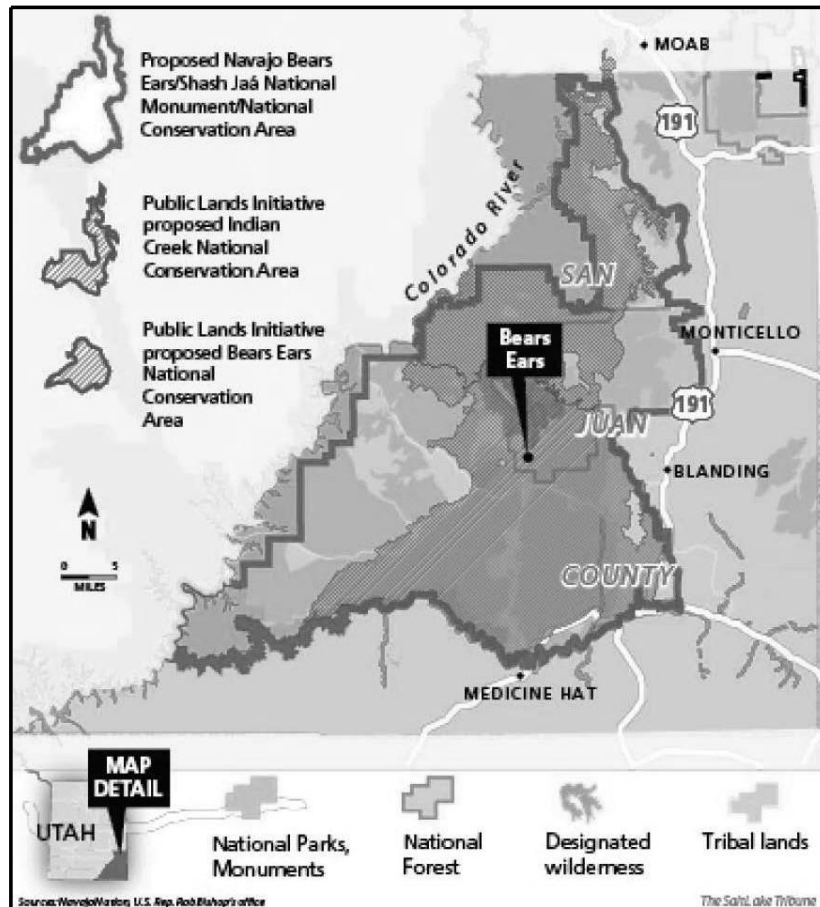
### **III. Comparing the Two Proposals**

The text that follows identifies and assesses key differences between the Inter-Tribal Coalition and PLI proposals. A more complete summary of the competing proposals is set forth in a Table at the end of this paper, and both proposals are depicted in Figure 1.

#### **A. The Bears Ears National Monument Proposal**

The Bears Ears Inter-Tribal Coalition is comprised of the Hopi Tribe, Navajo Nation, Ute Indian Tribe, Ute Mountain Ute Tribe, and Pueblo of Zuni. The Coalition has asked President Obama to designate a Bears Ears National Monument, as shown below.<sup>42</sup> Twenty-six additional

tribal governments support the coalition proposal.<sup>43</sup> Though there is no guarantee that the President will designate the monument, or that a designation would match the proposal, we anticipate that a National Monument would combine details from the proposal and many of the standard provisions discussed above.



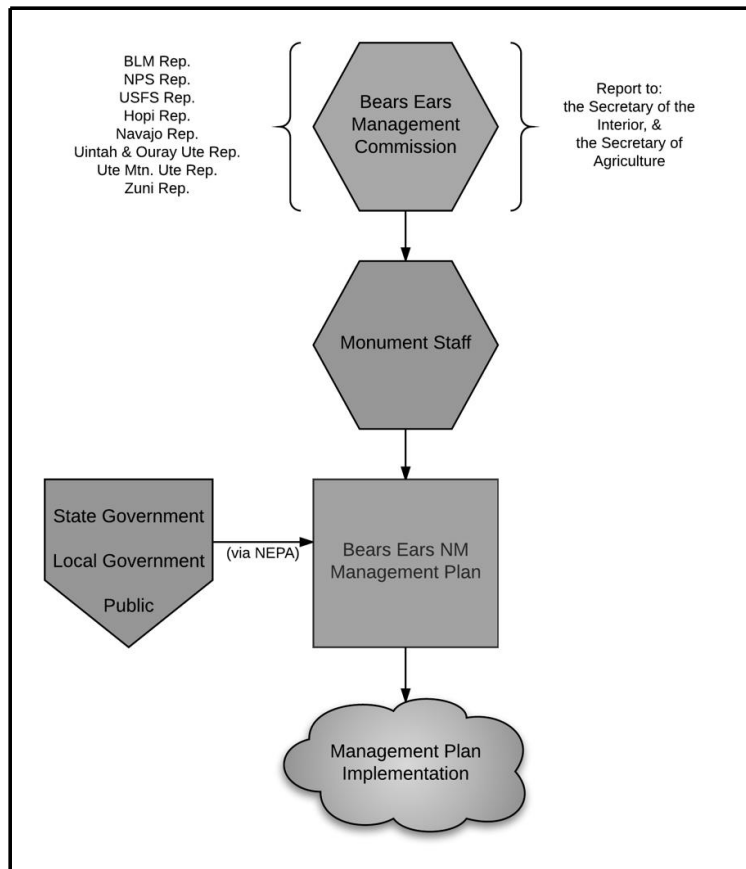
**Figure 1 -- Monument & NCA Proposals**

The Inter-Tribal Coalition's proposal advocates for greater tribal involvement in monument management.<sup>44</sup> As shown in Figure 2, the Coalition's proposal calls for an eight-member management commission comprised of one representative from each of the five coalition tribes, plus one representative from each federal agency that currently administers lands within the proposed monument: the Forest Service, the BLM, and the National Park Service. The commission would collaborate on all management decisions. If commission members fail to agree, the agencies and tribes would proceed to mediation; if mediation fails, final decision-making authority remains with either the Secretary of the Interior or the Secretary of Agriculture, depending on land ownership.<sup>45</sup> While the proposal calls for an unprecedented level of tribal involvement, the proposal also guarantees that no decision would be made over the objection of the Secretaries and that final decision-making authority would remain with the federal government. Notably, while the Intertribal Coalition's proposal creates a commission to address federal and tribal concerns, other stakeholders as well as state and local governments, lack comparable representation and must rely on public input processes enshrined in the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act

(FLPMA) existing laws.<sup>46</sup>

Under the Coalition proposal, key resource management issues within the monument would be addressed in the presidential proclamation, while subsequent planning documents would address implementation. The Coalition recommends that the following provisions be included in the proclamation itself:

- A permanent mineral withdrawal for future location and leasing, of all lands within the monument.<sup>47</sup>
- A permanent withdrawal from all other forms of leasing, selection, sale, exchange, or disposition, other than those exchanges that further the purposes of the monument.
- The management plan should include a transportation plan designating the roads and trails available for motorized or non-motorized vehicle uses. Motorized and mechanized vehicle use should be permitted only on designated roads and trails consistent with the purposes of the monument.
- State of Utah and Ute Mountain Ute hunting and fishing laws should continue to apply within the monument.
- The Secretaries should be directed, upon request of the State of Utah, to negotiate with the state for an exchange of the state inholdings within the monument.
- The proclamation should provide for collaborative management.
- The management plan should, to the maximum extent permitted by law, ensure protection of Native American sacred and cultural sites and provide access to those sites by members of Indian tribes for traditional and cultural uses, including gathering of minerals, medicines, berries and other vegetation, forest products, and firewood.
- Grazing under existing permits or leases should continue under existing law.
- Firewood gathering should continue under current management prescriptions and then be subject to such provisions as adopted in the management plan.



**Figure 2 – Proposed National Monument Management**

The proposed monument would include approximately 157,000 acres of state lands,<sup>48</sup> and the Coalition proposes that the federal government negotiate an exchange of state lands within the monument for developable federal lands outside of the monument.<sup>49</sup> The Coalition also proposes standard proclamation provisions protecting valid existing rights, Tribal rights, the rights of inholders, and existing water rights.<sup>50</sup> Remaining issues, including the implementation

of these provisions, would be resolved during the monument planning process. With the exception of the proposed eight-member management commission and co-management, these provisions basically mirror the content contained in other Obama administration monument proclamations.

### B. The Bears Ears and Indian Creek NCA Proposal

The PLI proposes two new NCAs in the Bears Ears area — an 857,603-acre Bears Ears NCA, and a 434,354-acre Indian Creek NCA. As seen in Figure 1, the proposed NCAs are contiguous but subject to different management requirements, and the NCAs overlap with much of the Inter-Tribal Coalition's proposed National Monument. The two proposed NCAs are addressed in turn, and summarized in Figure 3 as well as the table at the end of this paper.

Like the Inter-Tribal Coalition's proposal, the PLI recognizes that Utah has significant land holdings within areas that would be impacted by NCA designations, and like the Coalition's proposal, the PLI would allow the state to exchange inholdings for developable lands elsewhere in the state. Unlike the Coalition's proposal, which calls for a negotiated exchange, the PLI provides that if Utah offers to convey its inholdings to the U.S., the Secretary "shall," subject to certain conditions, "accept the offer," and "convey to the State all right, title, and interest" in statutorily specified federal lands to the state.<sup>51</sup> Negotiations and parcel value equalization are not required, and environmental and public review would be streamlined.<sup>52</sup>

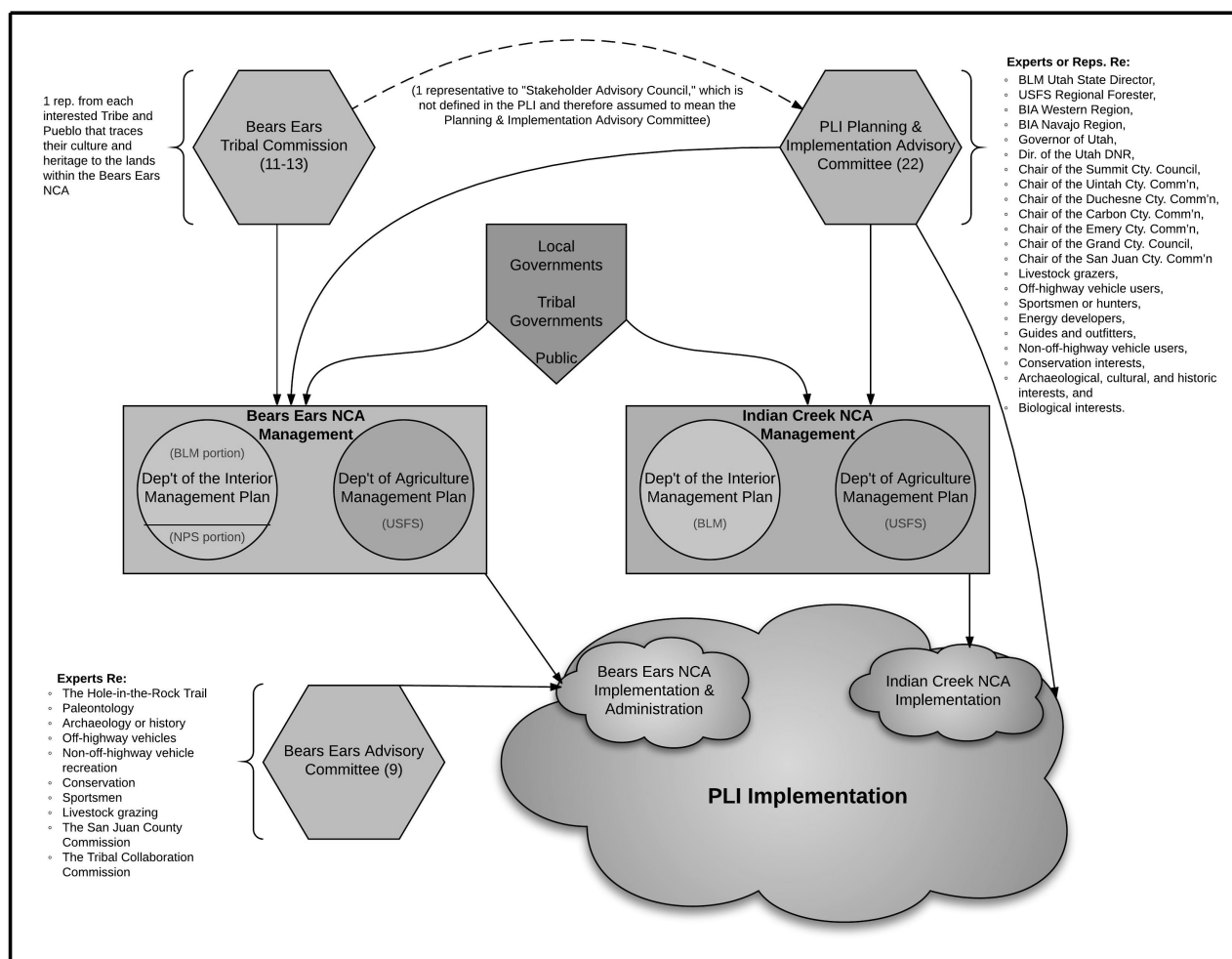


Figure 3 -- Proposed NCA Management

The PLI would also designate ten new or expanded wilderness areas that overlap portions of the two proposed NCAs. Narrow exceptions aside, roads, motorized vehicles, and mechanized equipment are all normally prohibited within wilderness areas.<sup>53</sup> Under the PLI, these prohibitions would remain in place, except that motorized access and road maintenance would be allowed as needed to guarantee the continued viability of water resource facilities that exist or which may be necessary in the future,<sup>54</sup> and as needed for firefighting and other purposes.<sup>55</sup> Most of the proposed wilderness areas reflect existing wilderness study areas, which are already subject to a statutory mandate not to impair their wilderness character.<sup>56</sup> All other proposed new wilderness areas on BLM lands are within areas inventoried as possessing wilderness character.<sup>57</sup> Two new wilderness areas would be designated within the Manti-La Sal National Forest. Additionally, under the PLI, approximately seventeen miles of the San Juan River would be protected under the Wild and Scenic Rivers Act.<sup>58</sup> This segment reflects a portion of the southern boundary of the proposed national monument.

#### ***The Bears Ears NCA Proposal***

Under the PLI, the Bears Ears NCA would be managed in accordance with six objectives, which are:

- Protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, scenic, recreational, archaeological, natural, and educational resources.
- Maintain and enhance cooperative and innovative management practices between resource managers, private landowners, and the public.
- Recognize and maintain historic uses.
- Provide for traditional access by indigenous persons for culturally significant subsistence, including but not limited to traditional gathering, wood cutting, hunting, and cultural and religious uses.
- Protect, preserve and minimize disturbance to Native American archaeological sites, including human remains, from permitted uses of Bears Ears consistent with the Native American Graves Repatriation and Protection Act, the National Historic Preservation Act, and the Utah State Antiquities Act.
- Integrate Native American traditional ecological knowledge; improve social, economic, and ecological sustainability in accordance with U.S. Forest Service planning regulations.<sup>59</sup>

Like national monument proclamations, the PLI requires preparation of an NCA management plan.<sup>60</sup> Within two years, “[t]he relevant Secretary shall prepare the management plan in consultation and coordination with local and tribal governments, the public, and the [PLI] Planning and Implementation Advisory Committee.”<sup>61</sup> The proposed NCA includes land currently managed by the National Park Service and the BLM, both of which are agencies within the Department of the Interior, as well as lands managed by the U.S. Forest Service, which is part of the Department of Agriculture. It is not clear whether the Secretaries overseeing these two Departments would be required to integrate their planning efforts, as is the case under the Inter-Tribal Coalition proposal.

The PLI explicitly provides for tribal involvement in certain aspects of planning. Under the PLI, the Secretary of the Interior must designate as cooperating agencies for the purpose of completing the Environmental Impact Statement, which is an essential step in the creation of an NCA management plan, any “interested Tribes and Pueblos that trace their culture and heritage to the lands within the Bears Ears [NCA].”<sup>62</sup> As BLM regulations require preparation of a combined plan and plan environmental impact statement,<sup>63</sup> cooperating Tribes and Pueblos would presumably also have a role in plan development. However, cooperating agency status under the PLI applies only to the Department of the Interior, so Tribes and Pueblos may not be

statutorily entitled to cooperating agency status in planning for the portion of the NCA that would be administered by the U.S. Forest Service.

The PLI also creates an independent “Bears Ears Advisory Committee” to advise the Secretary of the Interior with respect to management plan implementation and NCA administration.<sup>64</sup> The committee would be made up of one representative with expertise in each of the following areas:

- The Hole-in-the-Rock Trail
- Paleontology
- Archaeology or history
- Off-highway vehicles
- Non-off-highway vehicle recreation
- Conservation
- Sportsmen
- Livestock grazing
- The San Juan County Commission
- The Tribal Collaboration Commission<sup>65</sup>

As this committee is only explicitly charged with advising the Department of the Interior, it is unclear whether the committee would also advise the Forest Service on planning matters.

Additionally, the PLI would create a “PLI Planning and Implementation Advisory Committee,” to advise the Secretaries of the Interior and Agriculture on how to implement the PLI, and on “policies or programs that encourage coordination among the public, local elected officials, or public lands stakeholders, and the State, tribes, or the Federal Government.”<sup>66</sup> There would be twenty-two members of the PLI Advisory Committee, which would be drawn from two groups. Thirteen individuals would represent government entities and agencies:

- The Utah State Director of the BLM,
- The Regional Forester of Region 4 of the United States Forest Service,
- A representative of the Bureau of Indian Affairs Western Region,
- A representative of the Bureau of Indian Affairs Navajo Region,
- The Governor of the State of Utah,
- The Director of the Utah Department of Natural Resources,
- The Chairperson of the Summit County Council,
- The Chairperson of the Uintah County Commission,
- The Chairperson of the Duchesne County Commission,
- The Chairperson of the Carbon County Commission,
- The Chairperson of the Emery County Commission,
- The Chairperson of the Grand County Council, and
- The Chairperson of the San Juan County Commission.<sup>67</sup>

Nine Utah residents would also be appointed to represent:

- Livestock grazers,
- Off-highway vehicle users,
- Sportsmen or hunters,
- Energy developers,
- Guides and outfitters,
- Non-off-highway vehicle users,
- Conservation interests,
- Archaeological, cultural, and historic interests,
- Biological interests.<sup>68</sup>

In sum, the PLI proposes to create three different advisory bodies, each of which would involve nine to twenty-two members, have overlapping responsibilities, and sometimes overlapping membership. This is far more complicated than the management structure envisioned under the Inter-Tribal Coalition proposal. Aside from the Bears Ears Tribal Commission, advisory bodies under the PLI also give far more authority to state and local governments than is true for the Inter-Tribal Coalition proposal, which makes no provision for state or local involvement.

The section of the PLI that would designate the Bears Ears NCA does not address mineral or land disposal withdrawals, livestock grazing, wildlife management, vehicle use, or water rights. Each of these issues is addressed under the Tribal Coalition's proposal and for the eleven other NCAs proposed under the PLI (including the proposed Indian Creek NCA discussed below). While this appears to be a drafting oversight, the omission could pose significant management challenges if not addressed through bill amendments.

#### ***The Indian Creek NCA Proposal***

The proposed Indian Creek NCA is located north of and adjacent to the proposed Bears Ears NCA. While the PLI discusses the proposed Bears Ears NCA in a standalone section, the proposed Indian Creek NCA is identified in a section creating eleven new NCAs. The management directives listed in that section would apply to all eleven NCAs, and include to:

- Protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, scenic, recreational, archaeological, natural, and educational resources of the NCA,
- Maintain and enhance cooperative and innovative management practices between resource managers, private landowners, and the public in the NCA, and
- Recognize and maintain historic uses of the NCA.<sup>69</sup>

Tribes and Pueblos would lack the substantive role in management plan development and implementation for the proposed Indian Creek NCA that they would have with respect to the proposed Bears Ears NCA. See Figure 3. The proposed Indian Creek NCA also lacks the explicit protection of Native American access and use that is included in the proposed Bears Ears NCA.

Furthermore, the PLI proposes that within the Indian Creek NCA, livestock grazing levels should be maintained at the "approximate stocking levels prescribed in the grazing permit that existed on January 1, 2016."<sup>70</sup> This potentially limits the ability to reduce grazing in response to wildfire, drought, or wildlife needs. No such requirements are found in the proposed Bears Ears NCA or the Inter-Tribal Coalition's National Monument proposal. And while the PLI recognizes continued state primacy with respect to wildlife and water rights management within the proposed Indian Creek NCA,<sup>71</sup> no such provision applies to the proposed Bears Ears NCA.

However, the proposed Indian Creek NCA is more protective of certain resources and uses than the proposed Bears Ears NCA. The Indian Creek NCA would be withdrawn from mineral development and disposal under applicable public lands laws.<sup>72</sup> No such withdrawal applies with respect to the Bears Ears NCA. Vehicle use within the Indian Creek NCA would be limited to designated routes.<sup>73</sup> Again, the Bears Ears NCA is not subject to similar protections.

Some of these differences may reflect drafting oversights. The Bears Ears NCA is proposed in Division G, Title I of the PLI, while the eleven other NCAs are proposed together in Division A, Title II of the bill. The bill's drafters may have simply neglected to extend intended protections to lands in the later section. It is also possible that the PLI's drafters assumed that these substantive issues could be resolved, with greater Tribal input, through the management plan development process applicable to the proposed Bears Ears NCA. Either way, the striking difference in approach would benefit from clarification.

## **V. Conclusion**

By enacting the Antiquities Act of 1906, Congress expressly granted the President the discretionary authority to set aside certain scientifically and historically important lands. Given this authority, national monument proclamations provide the flexibility to address issues unique to each landscape. Having evolved over time, today monument proclamations typically include both an express recognition of valid existing rights and state jurisdiction over water and wildlife,

and an express recognition of Native Americans' rights to access and utilize the landscape. They also include procedural direction requiring federal land managers to collaborate with state, tribal, and local governments as well as specific direction regarding resource protection. In light of these evolutionary changes, monument designations today often look quite different from those of a century ago. Congressional authority to designate and design National Conservation Areas is even broader than that available to the President under the Antiquities Act, and sufficiently flexible to address the unique challenges of a particular landscape. Thus, the critical distinction between an NCA and a national monument, aside from which branch of government undertakes the designation, involves the content they choose to instill in that designation.

In this case, the protections proposed under the PLI and by the Bears Ears Inter-Tribal Coalition differ noticeably. The Inter-Tribal Coalition's proposal is considerably larger, protecting upwards of 608,000 additional acres. While both proposals would require development of a detailed management plan and create opportunities for stakeholder involvement, they would do so in very different ways. The Inter-Tribal Coalition's proposal involves an eight-member federal-tribal management commission that would oversee management of a single management unit. Other stakeholders as well as state and local government would need to rely on consultation and cooperation requirements contained in other laws. In contrast, the PLI proposes to create two separate management units and three advisory bodies, involving up to forty-four total members.<sup>74</sup> Each of these entities would assume different roles and responsibilities, and each would engage in different manners and at different times during the planning or implementation process. And while the Intertribal-Coalition's proposal emphasizes tribal input, the PLI weighs heavily in favor of state and local government involvement. Further complicating matters under the PLI, it does not appear that the three federal agencies managing lands within the proposed NCA would be required to integrate management planning or administration. With three separate groups and up to forty-four representatives advising three federal agencies on wide-ranging issues, the PLI's management process has the potential to become unwieldy.

In terms of management, the Inter-Tribal Coalition's proposal would limit disposal and mineral development while protecting existing uses and state authority over water and wildlife. Under the PLI, Native Americans would have a heightened voice in managing the Bears Ears NCA, but no comparable role with respect to the Indian Creek NCA. The Indian Creek NCA would be subject to more protections like those contained in the Inter-Tribal Coalition proposal, but those protections would not extend to the Bears Ears NCA. Whether that reflects a drafting oversight or a decision to defer protections to management plan development is unclear.

Critically, both proposals recognize that any federal designation would capture thousands of acres of state trust lands, and that those lands should be exchanged for federal lands that are appropriate for development outside of the Bears Ears region. Where the Inter-Tribal Coalition's proposal calls for a post-designation negotiated exchange, the PLI dictates which lands would be exchanged. Although the PLI process may be more expedient, it would leave little room for public input and lacks a requirement, implicit in the Intertribal-Coalition proposal, that the parcels exchanged be of even approximately comparable value.

In sum, there are striking differences between the Inter-Tribal Coalition National Monument proposal and the pending PLI bill — and there are features to be lauded in both. Given the legal authority available to both the President and Congress, both mechanisms could produce comparable protections, and the best elements of the competing proposals should be incorporated into the final designation, whatever form that takes. While their visions may diverge, we must remember that both Native Americans and San Juan County residents have strong ties to the public lands at issue, and that all agree on the need for increased protection for this important landscape. Whatever the mechanism, these key stakeholders' concerns should be heard when defining the future of a landscape that helps define them.

	<i>Bears Ears National Monument</i>	<i>Bears Ears National Conservation Area</i>	<i>Indian Creek National Conservation Area</i>
Land Protected	1,900,000 acres	857,603 acres	434,354 acres
Management Objectives	"To assure that the Bears Ears area will be managed forever with the greatest environmental sensitivity and healing of the land to make it fully a place where we can be among our ancestors and their songs and wisdom and our deepest values, where the traumas of the past can be alleviated, where we can connect with the land and be healed; To make this National Monument the most deeply and truly "Native" of all federal public land units by honoring the historical and contemporary relationship between Native Americans and the natural world of Bears Ears; To protect and preserve, for future generations of all Americans, the natural features, beauty, and inspiration found in the extraordinary Bears Ears landscape; To bring to light, through research, public outreach, and actual practice, the many aspects and values of Indigenous Traditional Knowledge in its fullest sense as a philosophy, a cultural tradition, and a useful tool for enriching modern land management."	Protect, conserve, and enhance unique and nationally important historic, cultural, scientific, scenic, recreational, archaeological, natural, and educational resources; maintain and enhance cooperative and innovative management practices between resource managers, private landowners, and the public; recognize and maintain historic uses; provide for traditional access by indigenous persons for culturally significant subsistence, including but not limited to traditional gathering, wood cutting, hunting, and cultural and religious uses; protect and preserves and minimizes disturbance to Native American archaeological sites, including human remains; and integrate Native American traditional ecological knowledge to improve social, economic, and ecological sustainability.	Protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, scenic, recreational, archaeological, natural, and educational resources of the NCA; maintain and enhance cooperative and innovative management practices between resource managers, private landowners, and the public in the NCA; and recognize and maintain historic uses of the NCA.
Management Plan Development	"This key document... would be developed by Monument staff, with the Commission providing specific direction to staff regarding plan design and content, as well as review throughout the process of plan development. Members of the public and other key stakeholders would have ample opportunity to contribute to the development of the plan through normal NEPA processes."	"Prepare management plan in consultation and coordination with local and tribal governments, the public, and the [PLI] Planning and Implementation Advisory Committee." <i>The NCA includes BLM, USFS, and NPS managed lands – it is unclear whether the Department of the Interior and the Department of Agriculture will need to create separate plans or coordinate planning.</i>  "In preparing the management plan . . . , the Secretary of the Interior shall create a Commission consisting of one representative from each Tribe or Pueblo that enters into cooperating agency status. . . . The Secretary shall actively seek advice and carefully and fully consider the views of the Commission." <i>It is unclear if this commission would have a role in planning for USFS lands. It is also unclear whether this Commission would have a role in planning, as "cooperating agency" status applies to NEPA analysis of planning proposals rather than planning.</i>  The [PLI] Planning and Implementation Advisory Committee will include 22 members, 13 of which will represent federal, state and local governments; 9 of which will represent community interests.	"The relevant Secretary shall prepare the management plan in consultation and coordination with local and tribal governments, the public, and the [PLI] Planning and Implementation Advisory Committee." <i>The NCA includes BLM, USFS, and NPS managed lands – it is unclear whether the Department of the Interior and the Department of Agriculture will need to create separate plans or coordinate planning.</i>  The Public Lands Initiative Planning and Implementation Advisory Committee will include 22 members, 13 of which will represent federal, state and local governments; 9 of which will represent community interests. Members are appointed jointly by the Secretaries of Agriculture and the Interior.
Management Plan Administration	The Inter-Tribal Coalition proposes the creation of an 8-member council, comprised of the 5 tribes alongside the USFS, NPS, and BLM. The Council has hiring authority over the Monument Manager and creates all monument policy.  "The Agencies and the Tribes shall, from the beginning to the conclusion of all plans and projects, collaborate jointly on all procedures, decisions, and other activities except as otherwise provided in the Proclamation. In the case of impasse, undue delay, or other extraordinary circumstances, the Agencies and the Tribes shall proceed to appropriate mediation. If such mediation fails, the Secretary of Interior or the Secretary of Agriculture, as appropriate, shall in a written opinion explaining the reasons, make the relevant decisions."	Creates a 10-person "Bears Ears Advisory Committee" to advise the Secretary regarding on management plan implementation and administration. The Committee would include an expert in the Hole-in-the-Rock Trail, a paleontologist, an archeologist or historian, an off-highway vehicle representative, a non-off-highway vehicle representative, a conservationist, a sportsman, a cattle grazer, a member of the San Juan County commission, and a Tribal representative.  Creates a [PLI] Planning and Implementation Advisory Committee will include 22 members, 13 of which will represent federal, state and local governments; 9 of which will represent community interests. Members are appointed jointly by the Secretaries of Agriculture and the Interior.	Creates a [PLI] Planning and Implementation Advisory Committee will include 22 members, 13 of which will represent federal, state and local governments; 9 of which will represent community interests. Members are appointed jointly by the Secretaries of Agriculture and the Interior  The Secretary of the Interior is also encouraged to maintain and enhance "cooperative and innovative management practices between resource managers, private landowners, and the public in the Conservation Area."
Mineral Development	"A permanent withdrawal from the mining laws, for both location and leasing, of all lands within the monument."	PLI imposes no new limitations or protections.	Withdrawn from disposal and mineral development under applicable public land laws.

	<i>Bears Ears National Monument</i>	<i>Bears Ears National Conservation Area</i>	<i>Indian Creek National Conservation Area</i>
Livestock Grazing	"Grazing under existing permits or leases should continue under existing law."	PLI imposes no new limitations or protections.	The number of grazing permits cannot decrease in response to the new designation. "The number of livestock permitted to graze in areas designated by this title shall continue at approximate stocking levels prescribed in the grazing permit that existed on January 1, 2016 and additional or suspended [AUMs] shall be allowed to graze as range conditions allow or if range treatments improve conditions." Existing grazing facilities can be maintained, and new grazing facilities can be constructed.
Water Rights	The proposal protects existing water rights.	PLI imposes no new limitations or protections.	Designation does not create federal reserved water rights. "Nothing in this title...affects any water rights in the State of Utah existing on the date of enactment of this title, including any water rights held by the United States."
Wildlife	"State of Utah and Ute Mountain Ute hunting and fishing laws should continue to apply within the monument."	PLI imposes no new limitations or protections.	"Nothing in this title affects the jurisdiction of the State of Utah with respect to the management of fish and wildlife on Federal land in the State, including the regulation of hunting, fishing, and trapping and use of helicopters to maintain healthy wildlife populations, within the [NCA]."
Native American Uses	"The management plan should, to the maximum extent permitted by law, ensure the protection of Native American sacred and cultural sites in the monument and provide access to the sites by members of Indian tribes for traditional and cultural uses, including gathering of minerals, medicines, berries and other vegetation, forest products, and firewood." "Firewood gathering should continue under current management proscriptions and then be subject to such provisions as adopted in the management plan."	"Provides for traditional access by indigenous persons for culturally significant subsistence, including but not limited to traditional gathering, wood cutting, hunting, and cultural and religious uses within Bears Ears."	Native American uses are not specifically protected within the proposed Indian Creek NCA, but tribes will be consulted with during management plan development.
Vehicle Use	"Motorized vehicle use should be permitted only on designated roads. Non-motorized mechanized vehicle use should be permitted only on roads and trails designated for their use consistent with the purposes of the monument."	PLI imposes no new limitations or protections.	"The use of off-highway vehicles shall be permitted only on designated routes." Those routes cannot "significantly damage designated critical habitat or cultural resources" and cannot "interfere with private property or water rights." OHV use is authorized for maintaining grazing facilities; response to grazing management emergencies; water infrastructure maintenance and development; administrative purposes including emergency response, project construction and maintenance, and fire suppression. Secretary may only temporarily close or permanently reroute routes in consultation with the state and county if there is "significant[ ] damage to designated critical habitat or cultural resources," threat to public safety, or resource damage."
Recreation	Not explicitly addressed, but recreation users are mentioned. "Monument status for Bears Ears will lead to better management of off-road vehicle use and will improve the recreational experience for everyone who visits, including off-roaders."	"Protects, conserves, and enhances the unique and nationally important historic, cultural, scientific, scenic, recreational, archaeological, natural, and educational resources of Bears Ears."	"Authorize, maintain, and enhance the recreational use of the [NCA], including hunting, fishing, camping, hiking, backpacking, cross-country skiing, hang gliding, paragliding, rock climbing, canyoneering, sightseeing, nature study, horseback riding, mountain biking, rafting, off-highway vehicle recreation on designated routes, and other recreational activities."
Land Exchange	The Secretaries would be directed to, upon request of the state of Utah, to negotiate for an exchange of the state inholdings within the monument.	If Utah offers to convey inholdings within the PLI area to the federal government, the federal government <i>shall</i> accept the offer and convey to the state all right, title, and interest in the land. The exchange would be subject to streamlined NEPA review.	If Utah offers to convey inholdings within the PLI area to the federal government, the federal government <i>shall</i> accept the offer and convey to the state all right, title, and interest in the land. The exchange would be subject to streamlined NEPA review.

---

\* John C. Ruple is an Associate Professor of Law (Research), and Wallace Stegner Center Fellow at the University of Utah's S.J. Quinney College of Law.

\*\* Robert B. Keiter is the Wallace Stegner Professor of Law, University Distinguished Professor, and Director of the Wallace Stegner Center for Land, Resources & the Environment at the University of Utah's S.J. Quinney College of Law.

\*\*\* Andrew Ognibene is a J.D. Candidate, Class of 2018, University of Virginia School of Law.

The authors would like to thank Zach Williams, S.J. Quinney College of Law class of 2016, for his assistance researching NCAs.

<sup>1</sup> Utah Ass'n of Counties, 2015 Utah Counties Fact Book 37 (2015).

<sup>2</sup> *Id.*

<sup>3</sup> H.R. 5780, 114th Cong. 2d Sess. (2016) (*hereinafter* PLI).

<sup>4</sup> Acreage figures are approximations only, as it appears that NCA and National Monument acreages were calculated using differing assumptions.

<sup>5</sup> 54 U.S.C. §§ 320101-303 (2014 supp. II).

<sup>6</sup> See Collins & Green, *A Proposal to Modernize the American Antiquities Act*, 202 SCIENCE 1055 (1978).

<sup>7</sup> Congress may also enact legislation creating new National Monuments. When Congress designates a new National Monument, its power to ascribe management requirements and include other protective designations is limited only by the Constitution. When Presidents designate a new National Monument they are limited to the authority delegated to them by Congress.

<sup>8</sup> 54 U.S.C. §§ 320310(a) and (b) (2014 supp. II).

<sup>9</sup> See e.g. Utah Ass'n of Ctys. v. Bush, 316 F. Supp. 2d 1172, 1191 (D. Utah 2004), appeal dismissed for lack of standing, 455 F.3d 1094 (10th Cir. 2006).

<sup>10</sup> Pres. Proc. No. 9194, Establishment of the San Gabriel Mountains National Monument, 79 Fed. Reg. 62303 (October 10, 2014).

<sup>11</sup> See e.g., *id.*

<sup>12</sup> Cameron v. U.S., 252 U.S. 450 (1920) (Grand Canyon); Wyoming v. Franke, 58 F. Supp. 890 (D. Wyo. 1945) (Jackson Hole); Cappaert v. U.S., 426 U.S. 128 (1976) (Devils Hole); Tulare Cty. v. Bush, 185 F. Supp. 2d 18, 27 & n.2 (D.D.C. 2001), *aff'd*, 306 F.3d 1138 (D.C. Cir. 2002) (Giant Sequoia); Utah Ass'n of Ctys. v. Bush, 316 F. Supp. 2d 1172 (D. Utah 2004), appeal dismissed for lack of standing, 455 F.3d 1094 (10th Cir. 2006) (Grand Staircase-Escalante); and Anaconda Copper Co. v. Andrus, 1980 U.S. Dist. LEXIS 17861; Alaska v. Carter, 462 F. Supp. 1155 (D. Alaska 1978) (several Alaskan national monuments).

<sup>13</sup> 54 U.S.C. § 320301(b) (2014 supp. II).

<sup>14</sup> Cappaert v. U.S., 426 U.S. 128 (1976) (Devil's Hole); Cameron v. U.S., 252 U.S. 450 (1920); Wyoming v. Franke, 58 F. Supp. 890 (D. Wyo. 1945).

<sup>15</sup> Utah Ass'n of Ctys. v. Bush, 316 F. Supp. 2d 1172, 1183-85 (D. Utah 2004), appeal dismissed for lack of standing, 455 F.3d 1094 (10th Cir. 2006). See *also*, Tulare County v. Bush, 185 F.Supp.2d 18, 24 (D. D.C. 2001) ("The Antiquities Act sets forth no means for reviewing a President's proclamation other than specifying that a President has discretion in his or her use of the Act."), *affirmed* 306 F.3d 1138 (D.C. Cir. 2002).

<sup>16</sup> Mountain States Legal Found. v. Bush, 306 F.3d 1132, 1137 (D.C. Cir. 2002).

<sup>17</sup> Cameron v. U.S., 252 U.S. 450 (1920); Utah Ass'n of Ctys. v. Bush, 316 F. Supp. 2d 1172, 1192-93 (D. Utah 2004), appeal dismissed for lack of standing, 455 F.3d 1094 (10th Cir. 2006). See *also*, Tulare County v. Bush, 306 F.3d 1138, 1141-42 (D.C. Cir. 2002).

<sup>18</sup> Pres. Proc. No. 9297, Establishment of the Basin and Range National Monument, 80 Fed. Reg. 41969 (July 10, 2015).

<sup>19</sup> Pres. Proc. No. 9232, Establishment of the Browns Canyon National Monument, 90 Fed. Reg. 9975 (Feb. 24, 2015).

<sup>20</sup> Pres. Proc. No. 8946, Establishment of the Río Grande del Norte National Monument, 78 Fed. Reg. 18783 (March 25, 2013).

<sup>21</sup> Basin and Range Proc., *supra* note 18.

<sup>22</sup> Pres. Proc. No. 9298, Establishment of the Berryessa Snow Mountain National Monument, 80 Fed. Reg. 41975 (July 10, 2015).

<sup>23</sup> 42 U.S.C. § 1996 (2012), *but see* U.S. v. Mitchell, 502 F.3d 931 (9th Cir. 2007).

<sup>24</sup> Pres. Proc. No. 9476, Establishment of the Katahdin Woods and Waters National Monument, 81 Fed. Reg. 59121 (Aug. 24, 2016). *See also*, Pres. Proc. No. 9396, Establishment of the Sand to Snow National Monument, 81 Fed. Reg. 8379 (Feb. 12, 2016); Pres. Proc. No. 9395, Establishment of the Mojave Trails National Monument, 81 Fed. Reg. 8371 (Feb. 12, 2016); Pres. Proc. No. 9394, Establishment of the Castle Mountains National Monument, 81 Fed. Reg. 8365 (Feb. 12, 2016); Berryessa Snow Mountain Proc., *supra* note 22; Basin and Range Proc., *supra* note 18; Browns Canyon Proc., *supra* note 19; Pres. Proc. No. 9131, Establishment of the Organ Mountains-Desert Peaks National Monument, 79 Fed. Reg. 30431 (May 21, 2014); and Pres. Proc. No. 8947, Establishment of the San Juan Islands National Monument 78 Fed. Reg. 18789 (March 25, 2013) (all containing identical substantive language).

<sup>25</sup> San Gabriel Mountains Proc., *supra* note 10.

<sup>26</sup> Río Grande Del Norte Proc., *supra* note 20.

<sup>27</sup> Pres. Proc. No. 8868, Establishment of the Chimney Rock National Monument, 77 Fed. Reg. 59275 (Sept. 21, 2012).

<sup>28</sup> Beaver Dam Wash NCA, Pub. L. No 111-11 (2009).

<sup>29</sup> *See e.g.*, Dominguez Escalante NCA, Pub. L. No 111-11 (2009) (adding protection of riparian and wilderness values).

<sup>30</sup> Kings Range NCA, Pub. L. No. 91-476 (1970).

<sup>31</sup> Dominguez Escalante NCA, Pub. L. No 111-11 (2009).

<sup>32</sup> *See e.g.*, Kings Range NCA, Pub. L. No. 91-476 (1970).

<sup>33</sup> *See e.g.*, El Malpais NCA, Pub. L. No. 100-225 (1987), and Gila Box Riparian NCA, Pub. L. No. 101-628 (1990).

<sup>34</sup> *See e.g.*, Gunnison Gorge NCA, Pub. L. No 106-76 (1999), and Colorado Canyons NCA, Pub. L. No. 106-353 (2000).

<sup>35</sup> Beaver Dam Wash NCA, *supra* note 28, and Red Cliffs NCA, Pub. L. No 111-11 (2009).

<sup>36</sup> Red Cliffs NCA, *supra* note 35.

<sup>37</sup> Beaver Dam Wash NCA, *supra* note 28.

<sup>38</sup> El Malpais NCA, Pub. L. No 100-225 (1987).

<sup>39</sup> *Id.*

<sup>40</sup> *See e.g.*, San Pedro Riparian NCA, Pub. L. No 100-696 (1988), and Gila Box Riparian NCA, *supra* note 33.

<sup>41</sup> Beaver Dam Wash NCA, *supra* note 28, Red Cliffs NCA, *supra* note 35.

<sup>42</sup> The Bears Ears Inter-Tribal Coalition, Proposal to President Barack Obama for the Creation of Bears Ears National Monument (Oct. 15, 2015) (hereinafter “Inter-Tribal Proposal”) <http://utahdinebikeyah.org/wp-content/documents/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>.

<sup>43</sup> The Bears Ears Inter-Tribal Coalition, Tribes Uniting to Protect Bears Ears (last visited July 13, 2016) <http://www.bearscoalition.org/about-the-coalition/tribal-statements-of-support/>.

<sup>44</sup> Inter-Tribal proposal, *supra* note 42 at 30-31.

<sup>45</sup> *Id.* at 22.

<sup>46</sup> *See e.g.*, 43 U.S.C. § 1712(c)(9) (2012) (land use plan consistency under the Federal Land Policy and Management Act), and 40 C.F.R. § 1501.6 (2015) (cooperating agency status under the National Environmental Policy Act).

<sup>47</sup> The Inter-Tribal proposal also states that “All existing mineral rights should be honored, but future mining should be prohibited in Bears Ears.” *Id.* at 35.

<sup>48</sup> SITLA, Monument Designations May Impact Utah Education Funding, <https://trustlands.utah.gov/monument-designations-may-impact-utah-education-funding/> (last visited Aug. 10, 2016).

<sup>49</sup> Inter-Tribal proposal, *supra* note 42 at 36.

<sup>50</sup> *Id.* at 36-37.

<sup>51</sup> PLI, *supra* note 3, at 118:14-21.

<sup>52</sup> *Id.* at 122:16—123:14.

<sup>53</sup> 16 U.S.C. § 1131(c) (2012).

<sup>54</sup> PLI, *supra* note 3, at 21:21—22:4.

<sup>55</sup> *Id.* at 18:9-120.

<sup>56</sup> 43 U.S.C. § 1782(c) (2012).

<sup>57</sup> Bureau of Land Management, Dep't of the Interior, Monticello Field Office Record of Decision and Approved Resource Management Plan, Map 8 (2008).

<sup>58</sup> PLI, *supra* note 3, at 100:22-25.

<sup>59</sup> *Id.* at 206:14—207:25. The U.S. Forest Service is part of the Department of Agriculture. It is unclear whether Forest Service planning requirements are intended to apply to either the BLM or the National Park Service, both of which are in the Department of the Interior, which would also manage lands within the proposed NCA.

<sup>60</sup> PLI, *supra* note 3 at 31:1-20, and 208:1-20.

<sup>61</sup> *Id.* at 31:7-12, and 208:7-12.

<sup>62</sup> *Id.* at 209:1-16. Note that Department of the Interior regulations stipulate that under the National Environmental Policy Act, management plans require a full environmental impact statement and cannot be authorized in a less detailed environmental assessment. 43 C.F.R. § 1601.0-6 (2015).

<sup>63</sup> *Id.*

<sup>64</sup> PLI, *supra* note 3, at 210:10-20.

<sup>65</sup> *Id.* at 212:6—213:4.

<sup>66</sup> *Id.* at 198:8-11.

<sup>67</sup> *Id.* at 166:19—201:6.

<sup>68</sup> *Id.* at 201:8-21.

<sup>69</sup> *Id.* at 30:8—31:20.

<sup>70</sup> *Id.* at 33:8:18.

<sup>71</sup> *Id.* at 36:15—37:6, and 35:24—36:5 (wildlife).

<sup>72</sup> *Id.* at 31:22—32:32:8.

<sup>73</sup> *Id.* at 38:13:20.

<sup>74</sup> The Bears Ears Tribal Commission would include one representative from each interested Tribe and Pueblo that traces their culture and heritage to the lands within the Bears Ears NCA. While the Bears Ears National Monument proposal is being put forth by five tribes and supported by an additional twenty-six tribal governments, conservative estimates put Commission membership at between eleven and thirteen.



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1434  
<http://www.blm.gov/utah>



APR 05 2017

In Reply Refer To:  
UT (934) - 6240

RETURN RECEIPT REQUESTED  
91 7199 9991 7037 5223 3589

Shaun Chapoose, Chairman  
Ute Indian Tribe  
P.O. Box 190  
Fort Duchesne, UT 84026-0190

Dear Chairman Chapoose:

On December 28, 2016, the Bears Ears National Monument was established. The National Monument includes Federal lands administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Department of Agriculture, U.S. Forest Service (USFS) in San Juan County, Utah.

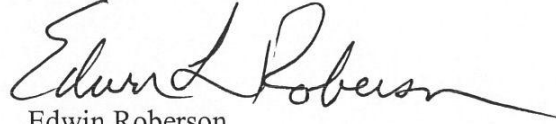
The Presidential proclamation establishes a Bears Ears Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

According to an inter-tribal letter that we received on March 3, 2017, all five tribes identified in the proclamation have appointed a representative to the Bears Ears Commission. Based on conversations that our cultural resource program staff have had with your Tribe, and a letter that we received from you on February 28, 2017, we understand that you have decided that all of the representatives on your Business Committee may serve as representatives on the Bears Ears Commission, but that you will be the primary point of contact.

Tyler Ashcroft, who has been assigned as the BLM project manager for Bears Ears, will contact you within the next few weeks to schedule a meeting with the Bears Ears Commission. During this initial meeting we would like to discuss how we can best work together.

In the meantime, if you have any questions, please do not hesitate to contact Tyler Ashcroft, Project Manager, (801) 539-4068, [tashcrof@blm.gov](mailto:tashcrof@blm.gov); or Donald Hoffheins, Monticello Field Office Manager, (435) 587-1506, [dhoffhei@blm.gov](mailto:dhoffhei@blm.gov).

Sincerely,

A handwritten signature in black ink, reading "Edwin L. Roberson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Edwin Roberson  
BLM-Utah  
State Director

cc. Mark Pentecost, Forest Supervisor



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1434  
<http://www.blm.gov/utah>



APR 05 2017

In Reply Refer To:  
UT (934) - 6240

RETURN RECEIPT REQUESTED  
91 7199 9991 7037 5223 3558

Russell Begaye, President  
Navajo Nation  
P.O. Box 7440  
Window Rock, AZ 86515

Dear President Begaye:

On December 28, 2016, the Bears Ears National Monument was established. The National Monument includes Federal lands administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Department of Agriculture, U.S. Forest Service (USFS) in San Juan County, Utah.

The Presidential proclamation establishes a Bears Ears Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

According to an inter-tribal letter that we received on March 3, 2017, all five tribes identified in the proclamation have appointed a representative to the Bears Ears Commission. Based on conversations that our cultural resource program staff have had with your Tribe, and a letter that we received from you on January 18, 2017, we understand that you have appointed James Adakai and Davis Filfred to serve as your representatives.

Tyler Ashcroft, who has been assigned as the BLM project manager for Bears Ears, will contact Mr. Adakai or Mr. Filfred within the next few weeks to schedule a meeting with the Bears Ears Commission. During this initial meeting we would like to discuss how we can best work together.

In the meantime, if you have any questions, please do not hesitate to contact Tyler Ashcroft, Project Manager, (801) 539-4068, [tashcrof@blm.gov](mailto:tashcrof@blm.gov); or Donald Hoffheins, Monticello Field Office Manager, (435) 587-1506, [dhoffhei@blm.gov](mailto:dhoffhei@blm.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin Roberson", with a long horizontal flourish extending to the right.

Edwin Roberson  
BLM-Utah  
State Director

cc. James Adaki, President, Utah Navajo Chapter of Olijato  
Davis Filfred, Navajo Nation Council  
Mark Pentecost, Forest Supervisor



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1434  
<http://www.blm.gov/utah>



APR 05 2017

In Reply Refer To:  
UT (934) – 6240

RETURN RECEIPT REQUESTED  
91 7199 9991 7037 5223 3572

Harold Cuthair, Chairman  
Ute Mountain Ute Tribe  
P.O. Box JJ  
Towaoc, CO 81334

Dear Chairman Cuthair:

On December 28, 2016, the Bears Ears National Monument was established. The National Monument includes Federal lands administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Department of Agriculture, U.S. Forest Service (USFS) in San Juan County, Utah.

The Presidential proclamation establishes a Bears Ears Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

According to an inter-tribal letter that we received on March 3, 2017, all five tribes identified in the proclamation have appointed a representative to the Bears Ears Commission. Based on conversations that our cultural resource program staff have had with your Tribe, we understand that you have appointed Terry Knight to serve as your representative.

Tyler Ashcroft, who has been assigned as the BLM project manager for Bears Ears, will contact Mr. Knight within the next few weeks to schedule a meeting with the Bears Ears Commission. During this initial meeting we would like to discuss how we can best work together.

In the meantime, if you have any questions, please do not hesitate to contact Tyler Ashcroft, Project Manager, (801) 539-4068, [tashcrof@blm.gov](mailto:tashcrof@blm.gov); or Donald Hoffheins, Monticello Field Office Manager, (435) 587-1506, [dhoffhei@blm.gov](mailto:dhoffhei@blm.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin Roberson", with a long horizontal flourish extending to the right.

Edwin Roberson  
BLM-Utah  
State Director

cc. Terry Knight, Tribal Historic Preservation Officer  
Mark Pentecost, Forest Supervisor



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1434  
<http://www.blm.gov/utah>



In Reply Refer To:  
UT (934) - 6240

APR 05 2017

RETURN RECEIPT REQUESTED  
91 7199 9991 7037 5223 3541

Herman G. Honanie, Chairman  
The Hopi Tribe  
P.O. Box 123  
Kykotsmovi, AZ 86039

Dear Chairman Honanie:

On December 28, 2016, the Bears Ears National Monument was established. The National Monument includes Federal lands administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Department of Agriculture, U.S. Forest Service (USFS) in San Juan County, Utah.

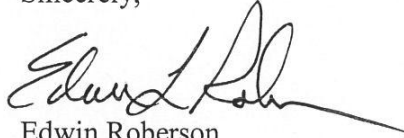
The Presidential proclamation establishes a Bears Ears Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

According to an inter-tribal letter that we received on March 3, 2017, all five tribes identified in the proclamation have appointed a representative to the Bears Ears Commission. Based on conversations that our cultural resource program staff have had with your Tribe, we understand that you have appointed Alfred Lomahquahu to serve as your representative.

Tyler Ashcroft, who has been assigned as the BLM project manager for Bears Ears, will contact Mr. Lomahquahu within the next few weeks to schedule a meeting with the Bears Ears Commission. During this initial meeting we would like to discuss how we can best work together.

In the meantime, if you have any questions, please do not hesitate to contact Tyler Ashcroft, Project Manager, (801) 539-4068, [tashcrof@blm.gov](mailto:tashcrof@blm.gov); or Donald Hoffheins, Monticello Field Office Manager, (435) 587-1506, [dhoffhei@blm.gov](mailto:dhoffhei@blm.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Edwin Roberson', with a long horizontal flourish extending to the right.

Edwin Roberson  
BLM-Utah  
State Director

cc. Alfred Lomahquahu, Vice Chairman, Bear Ears Commissioner  
Mark Pentecost, Forest Supervisor



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1434  
<http://www.blm.gov/utah>



APR 05 2017

In Reply Refer To:  
UT (934) - 6240

RETURN RECEIPT REQUESTED  
91 7199 9991 7037 5223 3565

Val Panteah, Sr. Governor  
Pueblo of Zuni  
P.O. Box 339  
Zuni, NM 87327

Dear Governor Panteah:

On December 28, 2016, the Bears Ears National Monument was established. The National Monument includes Federal lands administered by the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Department of Agriculture, U.S. Forest Service (USFS) in San Juan County, Utah.

The Presidential proclamation establishes a Bears Ears Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

According to an inter-tribal letter that we received on March 3, 2017, all five tribes identified in the proclamation have appointed a representative to the Bears Ears Commission. Based on that letter, and on conversations that our cultural resource program staff have had with your Tribe, we understand that you have appointed Carelton Bowekaty to serve as your representative.

Tyler Ashcroft, who has been assigned as the BLM project manager for Bears Ears, will contact Mr. Bowekaty within the next few weeks to schedule a meeting with the Bears Ears Commission. During this initial meeting we would like to discuss how we can best work together.

In the meantime, if you have any questions, please do not hesitate to contact Tyler Ashcroft, Project Manager, (801) 539-4068, [tashcrof@blm.gov](mailto:tashcrof@blm.gov); or Donald Hoffheins, Monticello Field Office Manager, (435) 587-1506, [dhoffhei@blm.gov](mailto:dhoffhei@blm.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Edwin Roberson', with a long horizontal flourish extending to the right.

Edwin Roberson  
BLM-Utah  
State Director

cc. Carleton Bowekaty, Councilman  
Mark Pentecost, Forest Supervisor



## BEARS EARS TRIBAL COMMISSION

*The Purpose of the Bears Ears National Monument is to Honor:  
The Land; the Tribes, Past and Present; and the Tribes' Relationship to the Land*

April 4, 2017

Nora Rasure  
Regional Forester- Intermountain Region  
U.S. Forest Service 324 25th  
Street  
Ogden, Utah 84401

Ed Roberson  
Utah State Director  
Bureau of Land Management  
440 West 200 South, Suite 500  
Salt Lake City, Utah 84101-1345

Dear Regional Forester Rasure and Director Roberson,

We write to inform you of recent activities by the Bears Ears Tribal Commission as well as to advise you of several pressing matters that need to be addressed by our Commission and your agencies in a timely fashion as part of the collaborative management relationship, as set forth in the presidential proclamation. For our part, we are greatly optimistic about working cooperatively with you to achieve a creative, smoothly-functioning management system.

On Thursday, March 29, 2017, the Bears Ears Tribal Commission held its first official meeting. This was an important milestone since it is the Commission that will be carrying forward the key relationship with your agencies regarding monument management. The Commission is made up of five tribal members. These were major appointments that needed to be carefully considered by each tribal governing body. By the week of March 20, all five commissioners had been officially appointed by the tribes.

At the March 29 meeting, Terry Knight, Ute Mountain Ute Tribe, and Carleton Bowekaty, Pueblo of Zuni, were elected as Commission Co-Chairs. The other Commissioners are Alfred Lomahquahu, Hopi Tribe; Shaun Chapoose, Ute Tribe; and Davis Filfred and James Adakai, who together are sharing the seat of the Navajo Nation. In addition to electing leadership, the Commission identified important next steps. One was to begin developing arrangements for hiring substantial staff, which will be necessary to address the many issues the Commission will be addressing. We also emphasized the need to have an early meeting with your offices to address both the relationship in general and also a number of issues that need prompt attention. The Commission respectfully

requests that the Forest Service and Bureau of Land Management work with us to address and resolve the following concerns:

- **National Monument Signage.** On December 28, 2016, President Obama designated the Bears Ears National Monument. More than three months after designation, the Forest Service and BLM have yet to install signage acknowledging the existence of the Monument. The lack of signage undermines the boundaries of the Monument undermines the values of this historic undertaking and creates confusion for visitors arriving to explore the newly designated Monument. The delay in installing appropriate signage is particularly concerning given that on March 29, 2017 the BLM installed new signage at Gold Butte National Monument in Nevada, which was also designated on December 28, 2016. We request that the agencies install adequate Monument signage at the earliest possible time and, in the spirit of cooperation and collaboration, we request that tribal members be involved in the design and ground breaking ceremonies. In the spirit of our ongoing working relationship, we offer to provide volunteers to assist with installation of all necessary signage.
- **Management of Visitor Impacts.** As you are aware, visitation to the Bears Ears area has steadily increased over the past decade. Not unexpectedly, visitation has dramatically shot up this year with the proclamation of the Bears Ears National Monument. We are concerned about the impacts to cultural and natural resources resulting from this increased visitation. The current absence of an interim strategy, signage, and proactive visitor information directing visitor experiences—combined with a lack of sufficient agency personnel on the ground—is having a negative impact on Monument objects. To increase protection for Monument objects prior to completing a comprehensive management plan, we request that the Forest Service and BLM work collaboratively with the Commission to develop an interim visitor management strategy. Among other immediate issues, the strategy should include a plan for managing non-commercial visitors, applications for commercial special recreation permits (perhaps including consideration of a temporary moratorium on new permits), and closure of illegal motorized routes (many of which have no physical barrier and/or signage indicating the currently closed status and some which have been utilized for cultural artifact looting). Developing an interim visitor management strategy is a positive, proactive measure that will result in increased protection for Monument objects and improved visitor experiences. We also urge you to increase law enforcement and volunteer presence on the ground in order to educate visitors and deter looting, vandalism, and other cultural and natural resource damage.
- **Cultural Resource Inventories.** We request that the Forest Service and BLM begin necessary Class III (pedestrian) cultural resource inventories throughout the Bears Ears National Monument. These critically important inventories are necessary in developing a Monument management plan that accurately captures the extent of cultural resources within the Monument and, in turn, ensures adequate protection of Monument objects. Given the time-intensive nature of Class III cultural resource inventories, we request that your agencies—in cooperation with us and in light of our extensive research on and personal knowledge of cultural resources—begin working on this inventory as soon as possible.

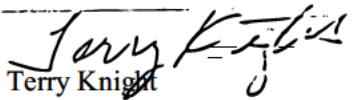
- **Monument Resource Advisory Committee.** The Proclamation establishes a Monument resource advisory committee (RAC) to “provide information and advice regarding the development of the management plan and, as appropriate, management of the monument.” The committee “shall consist of a fair and balanced representation of interested stakeholders, including State and local governments, tribes, recreational users, local business owners, and private landowners.” To assist the agencies in meeting the requirement for fair and balanced committee representation, we request that we work cooperatively together in determining both appropriate RAC member categories and the process for nominating candidates RAC membership.

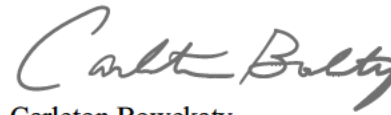
The Bears Ears National Monument Proclamation calls for a collaborative management partnership between the tribes and the federal agencies in order to make this Monument’s extraordinary promise a reality. In furtherance of this partnership, the Commission invites you and your staff to attend our next official meeting on April 21, 2017, hosted by the Ute Mountain Ute Tribe in Towaoc, Colorado. We have dedicated the entire afternoon, beginning at 1:00 PM, for a discussion with you on the matters we have raised in this letter as well as other matters you may wish to address.

Your attendance on April 21 will signify an important first step in what we hope will be a uniquely positive and meaningful government-to-government relationship. Your presence at this meeting will afford an opportunity to discuss the role of the Commission and your agencies moving forward, especially as it pertains to incorporating tribal traditional knowledge in developing a Bears Ears National Monument management plan and management generally. We set the April 21 meeting date in hopes that it will allow enough lead time for you to attend. If that is not possible, we urge you to work with us in finding another early date to discuss these critical matters as soon as possible. Please contact Commission Co-Chair Carleton Bowekaty at (505) 879-2826 or [Carleton.Bowekaty@ashiwi.org](mailto:Carleton.Bowekaty@ashiwi.org) to discuss this forthcoming Commission meeting.

Thank you for your courtesy.

Respectfully,

  
Terry Knight  
Ute Mountain Ute Tribe  
Co-Chair  
Bears Ears Tribal Commission

  
Carleton Bowekaty  
Pueblo of Zuni  
Co-Chair  
Bears Ears Commission

Cc: Mark Pentecost – Forest Supervisor, Manti-La Sal National Forest  
Mike Diem – District Ranger, Moab/Monticello Ranger District  
Don Hoffheins – Monticello Field Office Manager, Bureau of Land Management  
Tyler Ashcroft – Project Manager, Bureau of Land Management  
Christina Price, District Manager, BLM Canyon Country District

March 17, 2017

Honorable Ryan Zinke  
Secretary of the Department of the Interior  
1849 C. Street NW  
Washington, D.C. 20240

Honorable Michael Scuse  
Acting Secretary of the Department of Agriculture  
1400 Independence Ave., SW  
Washington, D.C. 20250

Dear Secretary Zinke and Acting Secretary Scuse,

This letter is to inform you that the Bears Ears Commission, which was established in President Obama's Bears Ears National Monument Proclamation, is now fully constituted. The elected Commissioners from the five sovereign Native American Tribes are : Alfred Lomahquahu - the Hopi Nation, Davis Filfred and James Adakai - the Navajo Nation, Terry Knight - the Ute Mountain Ute Tribe, Shaun Chapoose - the Ute Indian Tribe of the Uintah Ouray, and Carleton Bowekaty - the Zuni Tribe. We urge you to meet with the Commission members as soon as possible, and there will be a good opportunity will when Secretary Zinke makes his first visit to Utah as Secretary. This letter sets forth the reasons that such meeting would be beneficial as soon as possible.

Our five Tribes were the driving force in the effort to create the Bears Ears National Monument. Our people were forcibly removed from the Bears Ears area in the mid-1800s but we have always continued to return to this cultural landscape for ceremonies, hunting, gathering of herbs and medicines, and other purposes. Then, beginning in 2010, we turned to formal protection. We conducted a tremendous amount of research into the scientific, historic, and cultural values of the region. Based on that research, we developed boundaries for a protected area. Then, in October 2015, we submitted a comprehensive, formal proposal for protection as a national monument or other designated area and took the lead in meetings with the Obama Administration and the Utah Delegation. This was the first time in history that American Indian Tribes had ever petitioned for a national monument or other such designation. Making the monument a reality required long and hard work by a large number of Indian people, especially our tribal leaders and traditional practitioners.

The purpose of the Proclamation is to honor the Tribes, both historic and contemporary, the land, and the relationship between the Tribes and the land. The proclamation, in many places, emphasizes the importance of incorporating tribal traditional knowledge into all aspects of monument management. To be certain that the Tribes are fully represented in managing the new monument, the Proclamation calls for a regime of collaborative management between the tribes and the federal agencies. Our Commission was established "to *ensure* that management decisions affecting the monument reflect tribal expertise and historical knowledge." (emphasis added).

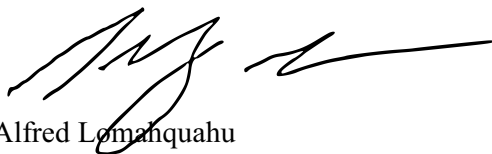
Among other provisions, your two agencies are directed to “partner” with the Commission, to “meaningfully engage” the Commission in monument management, to “carefully and fully consider” recommendations of the Commission, and to conduct “meaningful engagement” with the Commission. All of these provisions are now fully in force as federal law.

Now that our Commission has been fully constituted, we are most anxious to meet with agency officials in the field and, as mentioned, Secretary Zinke during his Utah visit. These will be opportunities to begin discussions on fulfilling the promise of this historic opportunity to create a unique and highly productive system of collaborative management.

We have heard reports that the Trump Administration may be considering actions to reduce the size of the monument or to eliminate it entirely. If that is correct, we would consider it essential that we are able to have full discussions with you about those possibilities. Of course, from our standpoint, any such actions would be absolute tragedies in terms of impacts on our people today and the eternal values and traditions of our many generations of ancestors. Needless to say, if such actions are not being considered, than the meetings would be extraordinarily productive in terms of starting to put in place a system of collaborative management that would make this monument one of the brightest stars in America's public land system.

We invite you to meet with the Commission when you visit Utah in March so that we may discuss the Bears Ears National Monument, its importance to our Nations, and our management priorities with you. Please contact Commission member Carleton Bowekaty at (505) 879-2826 or [Carleton.Bowekaty@ashiwi.org](mailto:Carleton.Bowekaty@ashiwi.org) to arrange this meeting.

Respectfully,



Alfred Lomahquahu

Bears Ears Commission Interim Co-Chair



Carleton Bowekaty

Bears Ears Commission Interim Co-Chair

Cc: Ed Roberson, State Director Utah, Bureau of Land Management  
Nora Rasure, Regional Forester, U.S. Forest Service  
Tyler Ashcroft, Project Manager, Bureau of Land Management  
Michael Diem, Moab/Monticello District Ranger, U.S. Forest Service



Ed Roberson  
State Director  
Utah BLM State Office  
440 West 200 South, Ste. 500  
Salt Lake City, UT 84101

March 3, 2017

Dear Mr. Roberson;

We want to thank you and your staff for the hospitality shown to us and our colleagues in our visits to your office. The relationship between our Bears Ears Commission and the Bureau of Land Management will be central to the success of management of the Bears Ears National Monument. We think we are off to a good start and look forward to working closely with you.

As you know, each of the five tribes must certify a member of the Commission. These positions are very important to each of our tribes and we have been proceeding carefully and diligently. As of this week, all five tribes have completed their respective internal governmental process to be certified as Commissioners. Of course, this doesn't mean that we have taken an unreasonably long time to make these major decisions. After all, the national monument was proclaimed just two months ago.

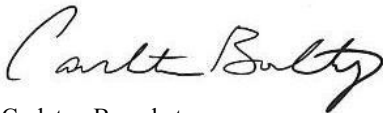
In terms of getting started, we would like to propose this: Now that our commissioners are certified, we will schedule our first Commission meeting as soon as possible. We have a lot of work to do at this organizational meeting, because there has never been an institution exactly like this one. In addition to other things, we will begin work on bylaws and a formal mission, establish funding priorities, and lay plans for putting a staff in place.

Shortly after that point, we would like to have an initial meeting with you and your staff. Preliminarily, we would expect to hold that meeting in late March; we would appreciate your advice on whether we should set a tentative date now, or wait until the Commission has held its organizational meeting. In any event, at this initial meeting our Commission and your office can begin discussing the ways that we can work together in managing this wonderful monument.

We would request that you not make any substantial decisions until we can have our initial meeting. For example, you have mentioned holding a public meeting. We ask you to hold off on that decision until we have had our initial meeting and a chance to discuss the issue with you.

Again, we appreciate the openness and support you have extended to us. We will proceed in the same way, and are optimistic about the exciting things we can create together.

Thank you for your courtesy.

A handwritten signature in cursive script, appearing to read "Carleton Bowekaty".

Carleton Bowekaty  
Zuni Tribal Councilman  
Co Chair, Bears Ears  
Inter tribal Coalition

A handwritten signature in cursive script, appearing to read "Alfred Lomahquahu".

Alfred Lomahquahu  
Hopi Vice Chair  
Co Chair, Bears Ears  
Inter tribal Coalition



**Utah Diné Bikéyah**  
- a non-profit supporting Native Tribes working together to **Protect Bears Ears**

[www.utahdinebikayah.org](http://www.utahdinebikayah.org)  
[info@utahdinebikayah.org](mailto:info@utahdinebikayah.org)  
(385) 202-4954

FB @UtahDineBikeyah | Twitter @UtahDineBikeyah | Instagram @ProtectBearsEars

March 2<sup>nd</sup>, 2017

Ryan Zinke

Secretary of the Department of the Interior

1849 C Street, N.W.

Washington, DC 20240

Email: [exsec@ios.doi.gov](mailto:exsec@ios.doi.gov), [timothy\\_williams@ios.doi.gov](mailto:timothy_williams@ios.doi.gov), [micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)

Dear Honorable Secretary Ryan Zinke,

Congratulations on your confirmation and we wish you the best in your new responsibilities as Secretary of the Interior. We understand that you have already scheduled meetings with representatives from San Juan County, Utah who oppose the recently established Bears Ears National Monument, including Commissioner Rebecca Benally and select individuals who support the County's position. For a balanced perspective of the situation, we urge you to also meet with representatives who support the national monument including elected tribal officials and grassroots tribal members and elders involved in proposal's development.

We previously extended an invitation to come visit with us at Monument Valley when you visit Utah, and this offer stands whenever you are able. In addition to this meeting, we would also like to offer to come to D.C. to ensure that our side is heard. We will bring local Navajo Chapter House Presidents, Ute leaders, tribal leaders with ancestral ties to Bears Ears as well as spiritual and community leaders who represent Bears Ears National Monument supporters in San Juan County, Utah. We would very much like to come to Washington D.C. to meet with you at your earliest convenience.

As the overseer of federal agencies with a federal trust responsibility to sovereign Native American Tribes, we respectfully request your advocacy to ensure the tribal perspective is heard from the sovereign Tribes regarding the protection of the Bears Ears Region as a national monument. While we respect Commissioner Benally's right to oppose the monument, we also bring attention to the fact that she does not represent her tribal Nation, nor does she represent the views held by the majority of Native Americans in San Juan County. In addition to opposing Bears Ears, which is widely supported by local Native Americans, she has alienated herself by opposing the Navajo Nation voting jurisdiction lawsuit which is intended to equalize representation of Native American voters in San Juan County.

You may or may not be aware of the high racial tensions that currently exist in San Juan County. We ask you to visit us in Monument Valley, which is on-reservation because monument supporters who are Native American are unlikely to travel to hostile communities such as Blanding and Monticello where intimidation tactics are regularly employed to suppress Native voices. Similarly, white opponents of the monument are unlikely to go on reservation, so you may want to hold meetings in both the northern and southern halves of the county to ensure that both halves of the county are heard.

Most importantly however, any formal discussions on the future of Bears Ears should include official tribal elected officials, the Bears Ears Inter-Tribal commissioners and individuals who understand and respect the tribal perspectives from the local point of view.

We appreciate your consideration of our request and look forward to meeting with you in the near future.

Respectfully,

A handwritten signature in black ink, appearing to read 'Willie Grayeyes', written over a horizontal line.

Willie Grayeyes, Chairman  
Utah Diné Bikéyah

Cc: President Donald Trump, Utah Governor Gary Herbert, Senator Mike Lee, Senator Orrin Hatch, US Representative Jason Chaffetz, US Representative Rob Bishop, Larry Roberts Assistant Secretary of Indian Affairs, and BLM State Director Ed Roberson



**UTE INDIAN TRIBE**

P. O. Box 190  
Fort Duchesne, Utah 84026  
Phone (435) 722-5141 • Fax (435) 722-5072

February 28, 2017

Kristen Bell, Acting Director  
Bureau of Land Management  
U.S. Department of the Interior  
1849 C Street, N.W., Room 5665  
Washington, D.C. 20240

Tom Tidwell, Chief  
Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave, SW  
Washington, DC 20250-1111

**Re: Appointment to the Bears Ears National Monument Commission**

Dear Acting Director Bell and Chief Tidwell:

The Ute Indian Tribe of the Uintah and Ouray Reservation appreciates the President's recognition of the historic, cultural and natural values of the Bears Ears landscape by designating the Bears Ears National Monument. As you know, the Presidential Proclamation designating the Monument also established a Bears Ears Commission to ensure that Bureau of Land Management (BLM) and Forest Service (FS) management decisions affecting the Monument reflect tribal expertise and traditional and historical knowledge. The Proclamation states that the Commission shall consist of one representative from the Ute Indian Tribe of the Uintah Ouray, Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, and Zuni Tribe as designated by the tribes.

Pursuant to the Proclamation, the Ute Indian Tribe appointed a member of its Business Committee to serve on the Bears Ears Commission. Appointing a member of our Business Committee, without specifically naming a single member, ensures that the Tribe's elected body will be directly involved in the Commission and provide stability in the Tribe's representation on the Commission regardless of elections and changes in the membership of our Business Committee. We plan to reach out to the other tribes to begin holding Commission meetings as soon as possible.

The Ute Indian Tribe has a deep and ongoing connection to the sacred sites and resources making up the Bears Ears National Monument. We look forward to working with BLM and FS to protect these vital resources. Please let us know when you plan to develop a management plan for the Monument and when we can meet to discuss next steps. Please contact the Business Committee through our Washington, D.C. counsel, Rollie Wilson at 202-340-8232.

Sincerely,

Shaun Chapoose, Chairman  
Ute Tribal Business Committee

Cc: Ed Roberson, BLM Utah State Director  
Navajo Nation  
Hopi Nation  
Ute Mountain Ute Tribe  
Zuni Tribe



## MEXICAN WATER CHAPTER



Red Mesa TP#1019, HC 61 Box 38 • Teec Nos Pos, AZ 86514 • (928) 429-0986

February 21, 2017

Ryan Zinke  
Secretary-Designate  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240  
Email: [exsec\\_exsec@ios.doi.gov](mailto:exsec_exsec@ios.doi.gov)

Dear Secretary Designate Zinke,

Congratulations on your nomination and pending confirmation as the 52<sup>nd</sup> Secretary of the Interior. We look forward to working with you in your capacity as overseer of the federal agencies that make key decisions affecting tribes and our natural resources. We invite you to attend a community listening session in Monument Valley, Utah to discuss the Bears Ears National Monument with tribal officials and Utah citizens.

During your recent confirmation hearing, you stated that your first official order of business is to come to Utah to talk to local community members and make a recommendation to the President of the United States about the Bears Ears National Monument. We would like to meet with you face to face to ensure that the monument is left alone, and that no effort be made to repeal, modify or reduce it in size. As local Utah Navajo, we write to extend a formal invitation to visit with official representatives of the Navajo Nation, including local Utah Navajo Chapter officials.

The Bears Ears National Monument continues to be a place of healing for our people, a place where we still gather firewood, plants and medicinal herbs. It is a place that stands in need of protection from mining, irresponsible recreational vehicle use as well as looting and destruction of our cultural resources. The Navajo Nation Council recently passed a tribal resolution in support of the Bears Ears National Monument proclamation and in opposition to any congressional or administrative action to reverse the proclamation. As the overseer of the federal agencies that have a federal trust responsibility, please take the necessary time to learn of the historical significance of this area by those with the authority to speak for the tribal perspective. Native Americans comprise the majority of citizens in San Juan County, Utah. Our elders wrote the proposal, we support the monument by a wide majority, and we will defend it politically and in court as necessary.

We ask that you come meet with our tribal officials and our local tribal members in the southern half of the county. Please meet with the tribal members who can offer unique perspectives on what these ancestral lands mean to our Tribes and listen to our views about the origins of this historic monument and the ongoing disregard of Native Americans by the State of Utah. **We urge you to respect the historic significance of this monument for Indian Country and honor Tribes by recommending no further action on the sacred landscape that is protected as Bears Ears National Monument.**

We appreciate your consideration of our request and look forward to meeting with you in Monument Valley, Utah.

Respectfully,

Kenneth Maryboy  
Mexican Water Chapter President



# THE NAVAJO NATION

**Oljato Chapter Administration**  
**P.O. Box 360455 Monument Valley, Utah 84536**  
Telephone 435-727-5850 Facsimile 435-727-5852

**James Adakai**, Chapter President  
**Albert Holiday**, Chapter Vice-President  
**LaNell Menard-Parrish**, Secretary/Treasurer

**Herman Daniels, Jr.**, Council Delegate  
**Benedict Daniels**, Grazing Official  
**Shirlee Bedonie**, CSC

February 20<sup>th</sup>, 2017

Ryan Zinke  
Secretary Designate  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240  
Email: [exsec\\_exsec@ios.doi.gov](mailto:exsec_exsec@ios.doi.gov)

Dear Secretary Designate Zinke,

Congratulations on your nomination and pending confirmation as the 52<sup>nd</sup> Secretary of the Interior. We look forward to working with you in your capacity as overseer of the federal agencies that make key decisions affecting tribes and our natural resources. We invite you to attend a community listening session in Monument Valley, Utah to discuss the Bears Ears National Monument with tribal officials and Utah citizens.

During your recent confirmation hearing, you stated that your first official order of business is to come to Utah to talk to local community members and make a recommendation to the President of the United States about the Bears Ears National Monument. We would like to meet with you face to face to ensure that the monument is left alone, and that no effort be made to repeal, modify or reduce it in size. As local Utah Navajo, we write to extend a formal invitation to visit with official representatives of the Navajo Nation, including local Utah Navajo Chapter officials.

The Bears Ears National Monument continues to be a place of healing for our people, a place where we still gather firewood, plants and medicinal herbs. It is a place that stands in need of protection from mining, irresponsible recreational vehicle use as well as looting and destruction of our cultural resources. The Navajo Nation Council recently passed a tribal resolution in support of the Bears Ears National Monument proclamation and in opposition to any congressional or administrative action to reverse the proclamation. As the overseer of the federal agencies that have a federal trust responsibility, please take the necessary time to learn of the historical significance of this area by those with the authority to speak for the tribal perspective. Native Americans comprise the majority of citizens in San Juan County, Utah. Our elders wrote the proposal, we support the monument by a wide majority, and we will defend it politically and in court as necessary.

We ask that you come meet with our tribal officials and our local tribal members in the southern half of the county. Please meet with the tribal members who can offer unique perspectives on what these ancestral lands mean to our Tribes and listen to our views about the origins of this historic monument and the ongoing disregard of Native Americans by the State of Utah. **We urge you to** respect the historic significance of this monument for Indian Country and honor Tribes by **recommending no further action** on the sacred landscape that is protected as Bears Ears National Monument.

We appreciate your consideration of our request and look forward to meeting with you in Monument Valley, Utah.

Respectfully,

A handwritten signature in dark ink, appearing to read "James Adakai", written over a horizontal line.

James Adakai  
Oljato Chapter President



Val R. Panteah Sr.  
Governor

Birdena Sanchez  
Lt. Governor

Wilfred Eriacho Sr.  
Head Councilman

Virginia R. Chavez  
Councilwoman

## PUEBLO OF ZUNI

P. O. Box 339  
Zuni, New Mexico 87327  
1203-B NM State Hwy 53  
Phone: (505) 782-7022  
Fax: (505) 782-7202  
[www.ashiwi.org](http://www.ashiwi.org)

505-782-7000 MAIN

Carleton R. Bowekaty  
Councilman

Audrey A. Simplicio  
Councilwoman

Eric Bobelu  
Councilman

Arlen Quetawki Sr.  
Councilman

Officially known as the Zuni Tribe of the Zuni Indian Reservation

February 2, 2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street, NW  
Washington, D.C., 20240

Dear Secretary Zinke:

Congratulations on your appointment as Secretary of the Interior. We look forward to working with you and your staff on a range of issues of importance to the Pueblo of Zuni and the United States, as we have with your predecessors. The unique legal relationship between the United States and Native American tribal governments, as set forth in the Constitution of the United States, treaties, statutes, and court decisions, establishes a foundation of trust, good faith, and mutual respect upon which we hope to build in the coming years.

As you know, the Pueblo of Zuni is a founding member of the Bears Ears Inter-Tribal Coalition, a formal body consisting of five Tribes which advocated for the creation of Bears Ears National Monument. Our Tribal Council has resolved that: "The Pueblo of Zuni, along with the other nineteen Pueblos, as well as Ute Mountain, Uintah & Ouray Ute, Navajo, and Hopi Nations stand together as one unified Native American coalition dedicated to the permanent protection of the Bears Ears region and its culture and natural resources through a national monument designation." We reaffirmed that resolution by way of a letter to the President on November 30, 2016, and we fully support and commit to defend Bears Ears National Monument.

Bears Ears is an important living cultural landscape that is central to our cultural and religious traditions. It is a place where our ancestors lived and migrated, and the lessons learned by our ancestors there led us to the center place where we now reside. We return to the Bears Ears cultural landscape regularly to respect our ancestors, to pray, and to teach our young people about our culture and history. Bears Ears is home to countless cultural sites, shrines, and rock art panels that tell the story of our history, and its continued protection is as vital to our past, our present, and our future as the protection of the monuments and historic sites in Washington DC is to American culture.

We greatly appreciated that the Department of the Interior engaged in a public process to determine whether and how to protect Bears Ears, including a five day visit to Utah where the concerns of state and local governments, stakeholders, and our tribes were heard. The Department also met many times with us and other Native Nations on a government-to-government basis to learn about our interests, values, and ongoing commitment to the proper care and management of the Bears Ears cultural landscape.

The same cannot be said of the Utah Congressional delegation's efforts relating to Representative Rob Bishop's Utah Public Lands Initiative (PLI), which resulted in H.R. 5780 in the 114<sup>th</sup> Congress. The Pueblo of Zuni,

DOI-2019-07 00489

2017 FEB 13 PM 2:02  
BLM-UT-950

through the Bears Ears Inter-Tribal Coalition, proposed a boundary for Bears Ears National Monument that would improve management of 1.9 million acres of what are now Federal public lands that have been known to us since time immemorial. The proposed boundaries were the result of years of careful deliberation, inventory of cultural resources, and collaboration between Native American Tribes – all of whom revere Bears Ears as we do. Unfortunately, the Utah delegation disregarded our input, disrespected the government-to-government relationship, and ignored our concerns in their resulting legislation.

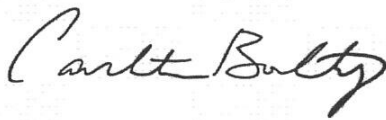
In substantial deference to the Utah delegation, the proclamation establishing Bears Ears National Monument largely mirrored the PLI's proposed boundaries, leaving lands of significant religious, cultural, historic, and scientific value outside of the final monument boundaries. In our view, the boundaries of Bears Ears National Monument are smaller than the minimum size necessary to protect the cultural objects for which it was designated. Nevertheless, the monument proclamation is critical to the protection of many of our important cultural and religious sites, and the collaborative management model established by the proclamation is a positive step in strengthening Zuni's longstanding ties to Bears Ears. Above all, we remain committed to working closely with the Department to ensure the Bears Ears cultural landscape and its irreplaceable values are protected and jointly managed in perpetuity.

In the spirit of the government-to-government relationship in which the Zuni Tribe and its partners have engaged with the Department of the Interior during the many years we have sought to protect our ancestral lands at Bears Ears, we respectfully request the opportunity to meet with you to discuss our interest in and the future of Bears Ears National Monument at your earliest opportunity.

Sincerely,



Val R. Panteah, Sr.  
Governor



Carleton R. Bowekaty  
Councilman

CC: President Donald J. Trump  
Sonny Perdue, Secretary of Agriculture Nominee  
Acting Managing Director, White House Council on Environmental Quality  
Tom Tidwell, USDA Forest Service Chief  
Kristin Bail, Acting Director, Bureau of Land Management  
Edwin Roberson, Utah State Director, Bureau of Land Management  
Nora Rasure, USDA Region 4 Forester

UTAH STATE OFFICE STATE DIRECTOR'S OFFICE			
RT	OFFICE	INITIAL	DATE
1	SD	SPR	2-13-17
2	ASD	ST	2-14-17
	LE		
	EA		
	EEO		
3	NAT RES	DB	2-21-17
	LND MIN		
	SUP SVC		
4	Tyler		



## Utah Diné Bikéyah

- a non-profit supporting Native Tribes working together to **Protect Bears Ears** -

[www.utahdinebikeyah.org](http://www.utahdinebikeyah.org)

[info@utahdinebikeyah.org](mailto:info@utahdinebikeyah.org)

(385) 202-4954

FB @UtahDineBikeyah | Twitter @UtahDineBikeyah | Instagram

@ProtectBearsEars

February 2, 2017

Ryan Zinke  
Secretary Designate  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Secretary Designate Ryan Zinke,

The Board Members of Utah Dine Bikeyah (UDB) would like to formally request that you join us on a field trip of Bears Ears National Monument and attend a community meeting in Monument Valley, Utah prior to considering taking any action regarding the monument. You will be hosted by some of Utah's most esteemed spiritual leaders and will be greeted by hundreds of Bears Ears supporters who have finally achieved a victory they have worked for years and decades to secure. This area is deeply treasured by our people and has been subjected to grave robbing, vandalism, mining, and most recently the political backlash of Utah elected officials. Most Utah officials have not met with local people, nor have they laid eyes on these treasured landscapes, yet they have publicly expressed their support for the type and size of conservation and collaborative management achieved. Grassroots people who depend on this landscape every day would like the opportunity to explain why we have worked so hard and so long to create this first ever Native American National Monument that honors our history and points toward our future.

At the request of our local elders, UDB developed the Bears Ears proposal over the past seven years. We followed all protocol and guidance from every level of government including the Navajo Nation, San Juan County, and the U.S. Congress. We spent three years compiling data and selected the smallest area compatible with our deep cultural interests in the region. In 2015, after years of being ignored and shut out of various processes by Utah officials, five Tribes including the Hopi, Zuni, Navajo, Ute Mountain Ute, and Uinta Ouray Ute stepped in to help achieve where Congress was failing. Tribes, UDB and the majority of local citizens and every elected official from our tribal governments respectfully ask that you leave Bears Ears as established.

If you are considering dismantling our answered prayers, we plead with you to come and see the land for yourself and meet the local San Juan County citizens who requested protection. Native Americans stand united and ready to fight for our future to hold on to this treasured landscape. We do not want any action that will change the boundary, deny the role of traditional knowledge, develop these lands, undermine local voices, or disgrace our ancestors who still reside there. To truly appreciate what is at stake, you must see the landscape and you must hear the wisdom of elders for yourself. We ask you to provide much needed leadership to help everyone come together to move forward, guided by the many values we share in common.

We plead that you leave Bears Ears National Monument as established. Utah Diné Bikéyah brings sustainable economic development solutions to the table. Opponents of the monument only offer scare tactics. Despite bringing solutions to the table, Utah officials tell the media our ideas won't work, even though they have never met with us to hear our ideas.

Native Americans in Utah face challenges unlike anywhere else in the United States and we would like to show you the political barriers we are up against in creating a future for our children. Our democracy is broken in San Juan County, Utah. We are powerless to bring about change in any way except through the courts. We desire to protect our culture at the same time we are creating jobs and a sustainable economy similar to what we are already doing at Monument Valley Tribal Park. Hundreds of our community members lack basic services such as running water, electricity, and we are exposed to lands and waters poisoned by uranium and oil and gas development. Of all of the places in the United States we have been forced to assume the greatest burdens of society, with none of the securities or opportunities. State and federal officials have often ignored our pleas for help. County commissioners sit on a \$35 million "rainy day fund" while our children suffer because nobody maintains our roads, builds schools, or makes investments into our future. We have tens of thousands of people ready to work, yet no opportunities near our home. However, despite our extreme poverty rates and our lack of political power, we do have our traditional culture. Our cultures provide us with dignity and a strong sense of community and our cultures are firmly rooted in the pristine lands at Bears Ears that we use every day.

In 2010, we asked a Navajo elder if she had any interest in off reservation federal lands regarding Senator Bennett's land use planning effort. Her response predicted exactly what is happening now. She said, her ties to that land were so strong that she was afraid to speak of them for fear that the white man will take this away too. She treasured her herbs, her spiritual places, and her connection to the past so much that she was afraid to even speak about it. We promised her that we would keep these things safe. After seven years of fighting to protect the very things she cares most deeply about, I am afraid she might be right. It seems that Utah officials care nothing about Native Americans here in Utah.

For the first time in the history of the United States, traditional knowledge has been recognized as an essential element in the management of this landscape. For the first time in the history of Utah our voice has been heard. And for the first time we have hope that our own voice might help shape our own future.

When you come to Utah to visit, please meet with us in Monument Valley, Utah and we will provide you with an experience you will never forget and you will see for yourself why this place matters. Finally, we do not understand the reasons why Utah politicians are threatening to undo an action they have stated for years they support in principle, and we wonder why they still refuse to work with us the respectful proper way, by talking face to face.

Thank you for your attention to this matter and we look forward to meeting with you the right way in Monument Valley, Utah.

Ahéhe, Thank you,

A handwritten signature in black ink, appearing to read 'Willie Grayeyes', written over a horizontal line.

Willie Grayeyes, Board Chair  
Utah Diné Bikéyah

Cc: White House, Utah Governor Gary Herbert, Senator Mike Lee, Senator Orrin Hatch, US Representative Jason Chaffetz, US Representative Rob Bishop, Larry Roberts Assistant Secretary of Indian Affairs, and BLM State Director Ed Roberson



January 18, 2017

President Barrack Obama  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Obama,

Pursuant to the power vested in me by 2 N.N.C. § 1005(c)(4) of the Navajo Nation Code, I hereby appoint Mr. James Adakai as the Navajo Nation's representative on the Bears Ears Commission, which was established by Presidential Proclamation No. 9558 on December 28, 2016. James Adakai is the elected President of the Utah Navajo Chapter of Oljato. Mr. Adakai will be supported by a technical team that will consist of employees of the Navajo Nation Historic Preservation Department and the Navajo Nation Department of Justice, and other Navajo Nation personnel as deemed necessary.

In addition, I appoint Navajo Nation Vice President Jonathan M. Nez to serve as the Navajo Nation's alternate Commissioner on the Bears Ears Commission. Vice President Nez will work closely with Chapter President Adakai and will attend and take action at Commission meetings in his absence.

Sincerely,

**THE NAVAJO NATION**

A handwritten signature in dark ink, appearing to read "Russell Begaye".

Russell Begaye, *President*

Cc: Sally Jewell, United States Secretary of the Interior

DOI-2019-07 00494



## BEARS EARS INTER-TRIBAL COALITION

A Partnership of the Hopi, Navajo, Uintah & Ouray Ute, Ute Mountain Ute, and Zuni Governments

# THE TRIBAL PROPOSAL TO PRESIDENT OBAMA FOR THE BEARS EARS NATIONAL MONUMENT

## OVERVIEW

The proposed Bears Ears National Monument is a place rich in history and culture. It is a place to connect, a place to heal, and a place where Native American Traditional Knowledge can be explored and nurtured so that it continues to inform and illuminate modern life. The Bears Ears Inter-Tribal Coalition, a consortium of five sovereign Indian nations—the Hopi, Navajo, Uintah & Ouray Ute, Ute Mountain Ute, and Zuni—has formally petitioned President Barack Obama to proclaim the Bears Ears National Monument in order to protect this extraordinary area for our Tribes, all Native people, and the nation.

The proposed 1.9 million acre monument is a landscape of deep, carved canyons, long mesas, inspiring arches, and arresting red rock formations. The monument's namesake, *the Bears Ears*, are twin buttes in the heart of the landscape that rise high above the piñon-juniper forests and canyons that adorn the renowned and majestic Cedar Mesa. It lies in Southern Utah, north of the Navajo Nation and the San Juan River, east of the Colorado River, and west of the Ute Mountain Ute Reservation. Bears Ears is adjacent to Canyonlands National Park and is every bit the equal of Canyonlands and the other great parks and monuments of the Colorado Plateau.

Ever since time immemorial, the Bears Ears area has been important to Native American people as a homeland. In the mid-1800s, Native Americans were forced fully and violently removed from the area and marched to reservations. But the Native bond to Bears Ears is strong and today is a place that embodies that history. Modern Native American people continue to use the Bears Ears area as a place for healing, ceremonies, and the gathering of firewood, plants, and medicinal herbs.

When they return to Bears Ears today, Native American people feel the presence of their ancestors everywhere. This landscape records their ancestors' migration routes, ancient roads, great houses, villages, granaries, hogans, wikiups, sweat lodges, corrals, petroglyphs and pictographs, tipi rings, shade houses, and burial grounds. Our people are surrounded by the spirits of the ancestors, and embraced by the ongoing evolution of their culture and traditions. For Native American people, Bears Ears is a place for healing. It is

also a place for teaching children Native American children and the world's children about meaningful and lasting connections with sacred and storied lands.

All of this is threatened by destructive land uses, such as mining and irresponsible off-road vehicle use and by the rampant looting and destruction of the villages, structures, rock markings, and gravesites within the Bears Ears landscape. The Bears Ears National Monument proposal is a bold and inspired plan to stem the tide of this erosion and protect Bears Ears for the benefit of all.

## **THE PROPOSAL**

<http://www.bearscoalition.org/wp-content/uploads/2015/10/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>

## **Mission Statement**

The mission of this National Monument shall be:

To assure that the Bears Ears area will be managed forever with the greatest environmental sensitivity and healing of the land to make it fully a place where we can be among our ancestors and their songs and wisdom and our deepest values, where the traumas of the past can be alleviated, where we can connect with the land and be healed;

To make this National Monument the most deeply and truly “Native” of all federal public land units by honoring the historical and contemporary relationship between Native Americans and the natural world of Bears Ears;

To protect and preserve, for future generations of all Americans, the natural features, beauty, and inspiration found in the extraordinary Bears Ears landscape;

To bring to light, through research, public outreach, and actual practice, the many aspects and values of Indigenous Traditional Knowledge in its fullest sense as a philosophy, a cultural tradition, and a useful tool for enriching modern land management;

A monument to all of these values will speak to the finest dreams of our people and those of the people of the nation and the world as well.

## Objectives

In keeping with this mission, the Coalition advances the following objectives:

- (1) True collaborative management through the federally created Bears Ears Commission, to include representatives from each of the five Coalition Tribes as well as from three federal land management agencies, who will cooperatively develop a culturally and environmentally sensitive comprehensive management plan consistent with President Obama's proclamation and then carry out the monument's management;
- (2) The integration of Traditional Knowledge into the monument's land management practices and the creation of a world-class Bears Ears Traditional Knowledge Institute, where experts and lay people alike can learn from the rich intersection of Western and traditional Native world views;
- (3) Expanded law enforcement capacity to safeguard tribal antiquities, finally putting an end to the inexcusable, centuries-long grave-robbing, looting, and destruction of some of the most precious archaeological sites in the world;
- (4) A permanent withdrawal from mining covering all lands within the monument, and withdrawal from all other forms of leasing, selections, sales, exchange, and disposition, other than those exchanges that further the purposes of the monument;
- (5) Restriction of motorized vehicle use to existing and designated roads and trails, consistent with the purposes of the monument and with a transportation plan that prioritizes pristine and roadless areas within the monument;
- (6) The continuation of existing, compatible local uses such as climbing, firewood gathering, grazing, hunting according to state and tribal law, and the Native American collection of medicines, herbs, and ceremonial plants;
- (7) Boundaries encompassing 1.9 million acres to protect the area's unparalleled cultural antiquities as well as the ecological integrity of the greater Canyonlands Basin;
- (8) Management of recreational activities and other uses to allow for the continued enjoyment of the Bears Ears landscape in ways that honor and preserve its legacy for the public forever.

## PROPOSED BEARS EARS NATIONAL MONUMENT

